

EXHIBIT NO. 1

14
9-13-08

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~~9-9-08~~

City of Alexandria, Virginia

MEMORANDUM

DATE: SEPTEMBER 2, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: REVISIONS TO THE CITY'S POLICY ON ACQUIRED ART

ISSUE: Revisions to the City's *Policy on Acquired Art*.

RECOMMENDATION: That City Council:

- (1) Receive the revised proposed policy on public art (Attachment 1) and make the document available for comment for Council's Saturday, September 13 public hearing meeting;
- (2) Following the public hearing, approve the recommendations for the revisions to the City's *Policy on Acquired Art* submitted by the Alexandria Commission for the Arts which provides for the purchase, commission and donations of works of art; and
- (3) Thank the members of the Public Art Committee and Commission for the Arts for their efforts on behalf of City Council.

BACKGROUND: In September of 1987, City Council approved the City's *Policy on Acquired Art* which allows for the acceptance of art as a commission or donation. The *Policy* requires the Alexandria Commission for the Arts, through its Public Art Committee, to study any materials presented by the donor or as a project; assess the design; consider installation and maintenance issues associated with the proposed commission or donation; have a public comment period; and make a recommendation to City Council. The ultimate authority to accept or decline donations of public art lies with the City Council. This *Policy* is the foundation and the first step in developing a comprehensive public art program. The 1987 *Policy on Acquired Art* has not been updated since its approval. Through the implementation of the *Policy*, members of the Commission and City staff often have found the *Policy* to be cumbersome and outdated. The recommended revisions to the policy include simplifying and clarifying the language of the *Policy*, and combining the original policies for purchases, commissions and donations into a single policy.

DISCUSSION: On June 24, 2008, Council received recommended revisions to the City's *Policy on Acquired Art* and set a Public Hearing date of September 13 for the revisions to the *Policy* (Attachment 2). The recommended revisions to the *Policy* were posted on the Alexandria Department of Recreation, Parks and Cultural Activities' and Commission for the Arts' websites and the public was invited to provide comments from June 27 through July 31. On July 15 the Commission held a Special Public Hearing to further solicit comments from the community (Attachment 3). At the Commission meeting, the members received comments from the public that focused on three specific areas:

- Limiting one art project by any one artist over 7 years;
- Waiving of all artists rights under the Visual Arts Rights Act of 1990; and,
- Pre-identifying locations for the placement of public art.

After the July 15 Commission meeting, staff came back to the Commission with revised language for page 1, 1.1.a. and for the Visual Arts Rights Act of 1990, page 6, 2.2. On August 12, the Commission held a special meeting to review comments and make further recommendations to the proposed revisions to the *Policy on Acquired Art*, which have now been incorporated into the proposed *Policy* (Attachment 1). The Commission unanimously approved the following proposed revisions:

A. Limit on multiple art projects by any one artist (Page 1, 1.1. a.):

To encourage artistic expression in Alexandria and ensure diversity of the collection, it is now proposed that the City of Alexandria may limit the number of art projects by any one artist that are acquired, donated, commissioned, or funded. The Public Art Committee and the Commission must review all exceptions to this procedure with final approval by the City Council.

B. Waiving of artist's rights (Page 6, 2.1.):

In the circumstance in which a commissioned artwork is physically part of the building or landscape and is not an independent object (s) that can be safely removed, it is now proposed that the City may require the artist to waive all rights that she/he may have under the Visual Arts Rights Act, 17 U.S.C. § 101 et.seq. (1990) ("VARA") to protect the City's interest, in regard only to the destruction of the art piece. Prior to the destruction of the art, the City will attempt to contact the artist and secure advice on the future of the work that may include redesigning the art for the new situation. In the event that the remodeling of the building or landscape destroys part of the art, the City will deaccession the art and, at the request of the artist, remove any attribution to the artist.

C. Pre-identified locations (page 1, 16):

The recommended revisions do address the pre-identification of locations for the

placement of public art. The Commission will review the administrative guidelines for the implementation of the *Policy on Acquired Art* and include work with the Public Art Committee in developing additional procedures in the future that will further address the pre-identification of locations for the placement of public art.

In summary, the Public Art Committee and the Commission reviewed the specific needs of the City of Alexandria, and have taken into account the history of public art in the City. These revisions are proposed in an effort to stay current with the public art standards for purchasing, commissioning, accepting and declining donations of art. In addition, the revisions to the *Policy* will help establish a stronger foundation for a comprehensive public art program in the City.

ATTACHMENTS:

Attachment 1. Revisions to the *Policy on Acquired Art*

Attachment 2. City Council Docket, June 24, 2008

Attachment 3. Comments Received, Revisions to the *Policy* from July 1 through July 31

STAFF:

Kirk Kincannon, Director, Recreation, Parks and Cultural Activities

Cheryl Anne Colton, Cultural Arts Administrator, Recreation, Parks and Cultural
Activities/Alexandria Commission for the Arts

Faroll Hamer, Director, Planning and Zoning

Richard Josephson, Deputy Director, Planning and Zoning

Policy
On
Acquired Art

City of Alexandria

CITY OF ALEXANDRIA'S POLICY
FOR THE PURCHASE, COMMISSION AND DONATION
OF WORKS OF ART
BY THE CITY OF ALEXANDRIA

The purpose of this Policy is to promote and encourage private and public entities to further the development and public awareness of and interest in art and cultural activities in the City of Alexandria. The goal is to integrate art into the City and to encourage economic development, stimulate interest in art and enhance Alexandria's reputation as a national leader in the arts. This Policy seeks to provide for future artistic endeavors and the promotion of Alexandria's cultural heritage, strengthen community pride and foster tourism.

SECTION ONE -- GENERAL PROCEDURE

1.1. **RESPONSIBILITY.** The authority ultimate responsibility for the purchase, including the commissioning and acceptance of works of art by the City of Alexandria (the "City") is rests with the City Council. It shall be the policy and practice for the City Council to seek a formal recommendation from the Alexandria Commission for the Arts (the "Commission") when a work of art is to be purchased, commissioned or donated to the City or when funding for educational and other art related programs is requested. The Commission and its subordinate bodies, the Public Art Committee shall act in accordance with this Policy Statement and any internal guidelines established by the Commission.

- a. To encourage artistic expression in Alexandria and ensure diversity of the collection, the City of Alexandria may limit the number of art projects by any one artist that are acquired, donated, commissioned, or funded. The Public Art Committee and the Commission must review all exceptions to this procedure with the final approval by the City Council.
- b. Prior to the approval of any art acquisition, commission, donation, purchase or funding for a program, a site for the work must be pre-identified and approved by the Recreation, Parks and Cultural Activities Department and the Planning and Zoning Department along with the Commission, the Public Art Committee, and other appropriate City departments or committees. In addition, the art acquisition, commission, donation, purchasing, or funding for a program must be approved by City Council.
- c. The City may negotiate public art pieces on private property as part of the site planning process. The Recreation, Parks and Cultural Activities Department and the Planning and Zoning Department along with other City departments will work with the Commission on these private public art projects.

1.2. DEFINITIONS:

- a. Alexandria Commission for the Arts shall be defined as in § 2-4-90 of the Code of the City of Alexandria (1981) as amended.
- b. City Council, shall mean the Alexandria City Council as defined in § 2-1-1, et. seq., of the Code of the City of Alexandria (1981) as amended.
- c. Permanent Works of Public Art or Permanent Art Programs shall mean all works of art purchased, donated, commissioned or funded which shall be displayed or kept for two years or more, and shall be subject to competitive selection. Such process shall have been approved by the Commission and the Public Art Committee. All exceptions to this procedure must be approved by the City Council.
- d. Public Art, as defined by this Policy, encompasses the broadest definition of art including the imaginative use and interplay of all artistic disciplines, including but not limited to performing arts and street fairs. Public art governed by this Policy shall be art that is visually or physically accessible to the public that is acquired by City funds, donated to the City, or approved by the City Council.
- e. Public Art Committee shall be established by the Alexandria Commission for the Arts to advise the Commission regarding the purchase, commission, donation and funding of art.
- f. Public Art Project shall mean:
 - (1) The commissioning of permanent works of art designed for specific public sites in Alexandria;
 - (2) The loan, purchase, donation or commission of art deemed appropriate for public sites;
 - (3) Artists contracted to work as integral members of architectural, infrastructure, and urban design teams; and,
 - (4) Installations, artist-in-residence programs, and other short term projects or planning activities that result in the creation of temporary or permanent public art.
- g. Site Integrated Works of Public Art is art that is physically a part of a facility that cannot be removed or relocated without destroying the artwork. The lifespan of a site integrated work of public art can be temporary or permanent but terminates at

the end of the City's ownership or with the demolition of the facility or specific site in the facility such as a wall, floor or outside areas.

Attachment 1 (4 of 15)

h. Temporary Works of Art or Programs shall mean any art or program which is displayed in a City-owned public place or space for a period up to two (2) years. Temporary works of art may be displayed, commissioned or funded without the use of a competitive selection process.

~~1.2.3. PUBLIC ART COMMITTEE: REVIEW PANEL.~~ The Commission shall establish and appoint the members of a Public Art Committee (the "Committee") to advise the Commission on the purchase, commission, donation and funding of works of art.

~~1.3.2.1.~~ The Committee will consist of up to thirteen (13) ~~five~~ members, as follows:

~~(1)~~ One Commissioner from the Commission for the Arts with expertise in art;

~~(2)~~ Up to five (5) persons who reside or work within the City with expertise in urban planning, landscape architecture and/or architecture;

~~(3)~~ Up to five (5) persons who reside within the City such as an ~~two~~ artists or arts professional; and ~~who reside or work in the City;~~

~~(4)~~ Two (2) persons who reside in the City with an interest in art.

~~two artists or art professional who may or may not reside in the City; and one citizen resident of the City.~~

~~1.3.2.~~ The Chair of the Public Art Committee shall be appointed by the Chair of the Commission for the Arts.

~~1.3.2.3.~~ Committee members will serve three-year terms. ~~Initial terms will be two three-year terms, two two-year terms and one one-year term to be determined by lot.~~ Committee members may serve a maximum of one two full three-year terms. Members may be reappointed to the Public Art Committee after a hiatus of two years.

~~1.2.3.~~ The Committee will have the right as it deems appropriate to appoint subordinate bodies and to consult Commission Resource Panels for advice on the acquisition of particular works of art.

- ~~1.3.2.4.~~ The Committee will make its recommendations to the Commission regarding the acquisitions, donation, commission and/or funding of particular works of art at the request of City Council as expeditiously as possible. ~~next regular Commission meeting held after the Commission requests the Committee's assistance unless a different timetable is agreed upon by the Commission and the Committee.~~
- ~~1.3.2.5.~~ Members of the Committee are subject to all conflict-of-interest policies of ~~the Commission,~~ the City of Alexandria and Commonwealth of Virginia as detailed in Appendix A.
- ~~1.4.3.~~ **PUBLIC NOTICE, CITIZEN INVOLVEMENT.** The public shall be notified of a prospective purchase, commission, donation or funding of art, to the extent practicable, by notification in the local newspaper, on the City's website and/or on the Commission for the Arts website. In addition, The public will be encouraged to express opinions, in writing, to the Commission.
- ~~1.3.1.~~ a photograph or model or other means of notification may be used. Such notification shall be made at least two (2) weeks prior to the date of of a prospective purchase (including as much information about the work as possible) will be displayed for public viewing in one or more prominent areas within the City at least two weeks before the Commission meetings to consider the acquisition, purchase, donation, or funding of the art or program. If the purchase or acquisition involves public funding, notice and information about the public art will be published in the public notice section in a local newspaper and posted on the City's website.
- ~~1.5.4.~~ **COMMISSION RECOMMENDATION.** After a review of the Public Art Committee's report, the Commission shall adopt a formal recommendation to be presented to the City Council. ~~relating to the proposed acquisition of any work of art by the City.~~
- ~~1.6.5.~~ **FUNDING.** Commission funds ~~will be~~ may be set aside for the acquisition and commission of art in accordance with this Policy-Statement. The Commission may also seek other sources of funding for this purpose.
- ~~1.7.6.~~ **REFUSAL.** The Commission reserves the right to recommend that the City Council refuse any work of art.

1.8.7. **WORKS OF HISTORIC VALUE.** This policy shall not apply to any existing or future policies and procedures of the City of Alexandria and the Office of Historic Alexandria relating to works of historic interest and/or historic value.

Attachment 1 (6 of 15)

1.9.8. **COMMISSION REVIEW REQUIRED.** Except as provided for in paragraph 1.8.7, above, all works of art purchased with City funds are subject to this ~~Policy-Statement~~ and guidelines promulgated by the Commission.

1.10.9 **ART OWNED, FABRICATED OR DONATED BY A CITY EMPLOYEE. PRIOR APPROVAL OF CITY ATTORNEY.** No work of art owned by, under the control of or fabricated by a City employee shall be eligible for purchase or commission by the City without the prior approval of the City Attorney.

SECTION TWO

RIGHTS AND RESPONSIBILITIES OF THE ARTIST, DONOR AND THE CITY OF ALEXANDRIA

- 2.1. **WRITTEN PURCHASE AGREEMENT.** No work will be purchased without a written agreement between the artist and/or donor and the City. The agreement must be which has been approved by the City Council and signed by the City Manager or his designee. Such agreement shall, prior to its submission to the City Council, be approved by the Commission and, as to its legal sufficiency, by the City Attorney.

~~Sample standard contracts indicative of a typical agreement for the purchase of a work of art and typical agreement for the Commission of a work of art are attached to this Policy Statement. The Commission and the City Council may vary the terms of either if these sample agreements as circumstances require.~~

In the circumstance where a commission art is physically part of the building or landscape and is not an independent object (s) that can be safely removed, the City may require the artist to waive all rights that she/he may have under the Visual Arts Rights Act, 17 U.S.C. § 101 et.seq. (1990) (“VARA”) to protect the City’s interest, in regards only to the destruction of the art piece. Prior to the destruction of the art, the City will attempt to contact the artist and secure advice on the future of the work that may include redesigning the art for the new situation. In the event that the remodeling of the building or landscape destroys part of the art, the City will deaccession the art and, at the request of the artist, remove any attribution to the artist.

- 2.2. **SITE-SPECIFIC WORKS OF ART.** Unless otherwise agreed to in writing, by contract the artist or donor shall will be responsible for fabrication, transportation, ~~and~~ installation, and maintenance of the art. ~~works.~~ The City will not assume liability for injuries to persons or property during installation. ~~of works.~~
- 2.3. **MAINTENANCE.** The artist or donor shall provide detailed instructions for the maintenance and ongoing care of the art, including future maintenance cost. The artist or donor may be required to fund an escrow account to cover the costs of maintaining the art.
- 2.4. **INSTALLATION.** The artist or donor shall provide detailed instructions for the installation requirements of the art and shall be responsible for fabrication, transportation and installation costs of the art. The artist or donor may be required to escrow funds to cover the costs to install the art.
- ~~2.5.2.4.~~ **RECORDS.** The Commission ~~or~~ of its agent(s) will maintain a permanent record of art ~~works~~ owned by the City.

~~2.4.1. The Artist must complete a catalog worksheet supplied by the City before final payment for the work will be processed. The worksheet will include such information as the artist's name and the medium used.~~

~~2.5~~ **CREDITS.** A notice, including but not limited to, the artist's and/or donor's name and stating that mentioning the City is the owner of the art, ownership, will be publicly displayed and identified with the art-work. In the event the donor requests to remain anonymous, the credit will reflect this. This notice will be fabricated, installed and paid for by the City. The Commission will approve the design of the notice.

2.7. INSURANCE. The City will insure, through commercial insurance or its own policy of self-insurance, all completed works of art purchased by the City for amounts and under conditions the City, with the advice of the Commission, deems appropriate. The City will not necessarily insure works of art for the valued amount set forth in an appraisal submitted by donors or other valuations submitted by donors.

~~2.8.3.~~ **DEACCESSIONING.** Deaccessioning means the formal process used to remove ~~a work~~ of art from the City's collection.

~~2.7.3.1.~~ This Policy ~~Statement~~ specifically contemplates that works from the City's collection may, from time to time, be sold or otherwise disposed of.

~~2.7.3.~~ ~~Proposals to the City Council with respect to deaccession of works from the City's collection shall be previously considered by the Commission and the Panel.~~

~~2.7.3.2.~~ In determining whether any art work is to may be deaccessioned, the following factors may be considered: ~~consideration is given to:~~

- a. the City's ability to continue properly to preserve or care for the work;
- b. the extent to which the work may, in the context of the collection, be surplus, redundant, ~~or~~ a duplicate or of inferior quality;
- c. the extent to which the disposition of the work may, whether by exchange or through use of proceeds derived from its sale, permit the City to upgrade and refine the collection; ~~and/or~~
- d. whether such work has been found to have been falsely documented, described or attributed and/or to be a forgery;
- e. whether the artist or donor has failed to comply with the terms of any contract with the City; and

f. whether deaccessioning of the art would be in the best interest of the City.

~~2.7.3.3.~~ No work that has been acquired by the City with a restriction as to its retention may be deaccessioned while such restriction remain in force. The Recreation, Parks and Cultural Activities Department through the Commission or designee of its agent shall be notified by the City Council of all such restrictions at the time of acquisition and will maintain a record of those restrictions.

~~2.7.3.4.~~ If art was a work originally received as a gift from a still-living donor or purchase from a still-living artist, the City will, as a matter of courtesy, notify that person of any determination made by the City to deaccession that work.

~~2.7.5.~~ The following methods of deaccession may be considered: exchange, public auction and private sale. If the work is sold, the proceeds from the sale of the deaccessioned work will be paid to the City and appropriated to the Commission. The details of the manner in which any deaccessioned work has been disposed of shall be a matter of public record.

~~2.7.3.6.~~ The manner in which a collection work which has been deaccessioned is to disposed of shall be determined by the City Council with the advice of the commission. Except in the case of a work which has been found to have been falsely documented, described or attributed and/or to be forgery, no single method is considered preferable for every instance. Among the method which The following methods of deaccession may be considered: are:

- a. ~~exchange;~~
- b. ~~public auction; and~~
- e. ~~private sale.~~

~~2.7.3.7.~~ In the case of a work which is found to have been falsely documented, described or attributed and/or to be a forgery and which is subsequently deaccessioned, additional consideration must be given to the protection of the public's interest. Depending upon the manner in which the work was originally acquired and all of the surrounding circumstances, consideration may be given to:

- a. ~~rescinding any purchase by which the work was required;~~
- b. ~~depositing the work on a long term basis in a scholarly archive devoted to the study of such material; and/or~~

e. ~~except in the case of a forgery and only if any error in the work's documentation, description or attribution will not thereby be perpetuated, public auction or private sale.~~

2.7.3.8. ~~The details of the manner in which any deaccessioned work has been disposed of shall be a matter of public record.~~

2.7.3.9. ~~If a work of art was purchased by the City from an artist is sold by the City during the lifetime of that artist, the artist shall be entitled to a royalty equal to seven (7) per cent of the difference between the City's purchase price and the gross sale price or fair market value of any property received in exchange for the work. This paragraph will not apply to the following:~~

2.3.9.1. ~~1. The resale of a work for a gross sale price less than \$500, or in exchange for property with a fair market value of less than \$500; and~~

2.3.9.2. ~~2. The resale of a work for a gross sale price of less than 140 per cent of the purchase price paid by the City, or in exchange for property with fair market value of less than 140 per cent of the purchase paid by the City.~~

2.7.3.10. ~~Proceeds from the disposition of deaccessioned works will be returned to the Commission's purchase fund.~~

**POLICY
FOR THE ACCEPTANCE OF DONATIONS
OF WORKS OF ART
BY THE CITY OF ALEXANDRIA**

SECTION ONE — PROCEDURE

- ~~1.1. — RESPONSIBILITY. The ultimate responsibility for the acceptance of donations of works of art by the City of Alexandria (the "City") rests with the City Council. It shall be the policy and practice for the City Council to seek a formal recommendation from the Alexandria Commission for the Arts (the "Commission") when a work of art is offered to the City as a gift. The Commission and its subordinate bodies shall act in accordance with this Policy Statement and any internal guidelines established by the Commission.~~
- ~~1.2. — REVIEW PANEL. The Commission shall establish and appoint the members of a Public Art Committee (the "Committee") to advise the Commission on the acceptance of donated works of art.~~
- ~~1.2.1. The Committee will consist of five members, as follows:~~
- ~~two artists or arts professionals who reside or work in the City;~~
 - ~~two artists or arts professionals who may or may not reside or work in the City;~~
 - ~~and~~
 - ~~one citizen resident of the City.~~
- ~~1.2.2. Committee members will serve three-year terms. Initial terms will be two three-year terms, two two-year terms and one one-year term, to be assigned by lot. Committee members may serve a maximum of one full three-year term.~~
- ~~1.2.3. The Committee will have the right as it deems appropriate to appoint subordinate bodies and to consult Commission Resource Panels for advice on the acquisition of particular works of art.~~
- ~~1.2.4. The Committee will make its recommendations regarding acquisitions of particular works of art at the next regular monthly Commission meeting held after the Commission requests the Committee's assistance, unless a different timetable is agreed upon by the Commission and the Committee.~~
- ~~1.2.5. Members of the Committee are subject to all conflict-of-interest policies of the Commission, the City of Alexandria and the Commonwealth of Virginia as detailed in Appendix A.~~

- ~~1.3. **CITIZEN INVOLVEMENT.** The public will be encouraged to express opinions, in writing, to the Commission.~~
- ~~1.3.1. A photograph or model of prospective donation (including as much information about the work as possible) will be displayed for public viewing in one or more prominent areas within the City at least two weeks before the commission meets to consider the acquisition.~~
- ~~1.4. **COMMISSION RECOMMENDATION.** The Commission shall adopt a formal recommendation to the City Council relating to the proposed acquisition of any work of art by the City.~~
- ~~1.5. **REFUSAL.** The Commission reserves the right to recommend that the City Council refuse any work of art.~~
- ~~1.6. **WORKS OF HISTORIC VALUE.** This policy shall not apply to any existing or future policies and procedures of the City of Alexandria and the Office of Historic Alexandria relating to works of historic interest and/or value.~~
- ~~1.7. **COMMISSION REVIEW REQUIRED.** Except as provided in paragraph 1.6, all works of art offered as gifts to the City are subject to this Policy Statement.~~
- ~~1.8. **PRIOR APPROVAL OF CITY ATTORNEY.** No work of art owned by, under the control of or fabricated by a City employee shall be eligible for purchase or commission by the City without the prior approval of the City Attorney.~~

**~~SECTION TWO — RIGHTS AND RESPONSIBILITIES
OF THE DONOR AND THE CITY~~**

2.8 POLICIES SPECIFIC TO DONATED ART.

- 2.8.1. **LOANS.** The City will consider accepting works of art on loan where it determines that ~~acceptance of the loan of the work~~ will be in the best interests of benefit the City. All ~~such loaned~~ art shall be for a definite time period. ~~based on the life of the donor.~~
- 2.8.2. **LIFE ESTATES.** The City will consider accepting the donation of any work of art in which the donor or ~~one other~~ another person retains an interest for life where it determines that acceptance of the work will be in the best interest of the City.
- 2.8.3. **FRACTIONAL INTERESTS.** The City will consider accepting the donation of fractional interest of any work of art where it determines that acceptance of the work will be in the best interest of benefit the City.
- 2.8.4. **COPYRIGHT.** Each donation must be accompanied by a clear statement from the donor regarding ownership of the copyright for ~~that~~ the work of art.
- ~~2.5. DEACCESSIONING. Deaccessioning means the formal process used to remove a work of art from the City's collection.~~
- ~~2.5.1. This Policy Statement specifically contemplate that works from the City's collection may, from time to time, be sold or otherwise disposed of.~~
- ~~2.5.2. Proposals to the City Council with respect to deaccession of works from the City's collection shall be previously considered by the Commission and the Panel.~~
- ~~2.5.3. In determining whether any work is to be deaccessioned, consideration is given to:~~
- ~~_____ The City's ability to continue to properly preserve or care for the work;~~
 - ~~_____ The extent to which the work may, in the context of the collection, be surplus, redundant, or a duplicate of inferior quality;~~
 - ~~_____ The extent to which the disposition of the work may, whether by exchange or through the use of proceeds derived from its sale, permit the City to upgrade and refine the collection; and/or~~
 - ~~_____ Whether such work has been found to have been falsely documented, described or attributed and/or to be a forgery.~~

- ~~2.5.4. No work which has been acquired by the City with a restriction as to its retention may be deaccessioned while such restriction remains in force. The Commission or its agent shall be notified by the City Council of all such restrictions at the time of acquisition and shall maintain a record of those restrictions.~~
- ~~2.5.5. If a work was originally received as a gift from a still living donor or purchased from still living artist, the City will, as a matter of courtesy, notify that person of any determination made by the City to deaccession that work.~~
- ~~2.5.6. The manner in which a collection of work that has been accusant is to disposed of shall be deaccessioned is to be disposed of shall be determined by the City Council with the advice of the Commission. Except in the case of a work that has been found to have been falsely documented, described or attributed and/or to be forgery, no single method is considered preferable for every instance. Among the methods which may be considered are: Exchange; Public auction; and Private sale.~~
- ~~2.5.7. In the case of work which is found to have been falsely documented, described or attributed and/or to be a forgery and which is subsequently deaccessioned, additional consideration must be given to the protection of the public's interest. Depending upon the manner in which the work was originally acquired and all of the surrounding circumstances, consideration may be given to:~~
- ~~—— Rescinding any purchase by which the work was acquired;~~
 - ~~—— Depositing the work on a long term basis in a scholarly archive devoted to the study of such material; and/or~~
 - ~~—— Except in the case of a forgery and only if an error in the work's documentation, description or attribution will not hereby be perpetuated, public auction or private sale.~~
- ~~2.5.8. The details of the manner in which any deaccessioned work has been disposed of shall be a matter of public record.~~
- ~~2.5.9. If a work which was donated to the City by an artist is sold by the City during the lifetime of that artist, the artist shall be entitled to a royalty equal to seven (7) per cent of the difference between the City's purchase price and the gross sale price or the fair market value of any property received in exchange for the work. This paragraph will not apply to the following:~~
- ~~2.5.9.1. The resale of a work for a gross sale price of less than \$500, or in exchange for property with a fair market value of less than \$500; and~~
 - ~~2.5.9.2. The resale of a work for a gross sale price of less than 140 per cent of the purchase price paid by the City, or in exchange for property with a fair market value of less than 140 per cent of the purchase price paid by the City.~~

~~2.5.10. Proceeds from the disposition of deaccessioned works will be returned to the Commission's purchase fund.~~

~~2.6. RECORDS. The Commission or its agent(s) shall maintain a permanent record of works owned by the City.~~

~~2.6.1. Donors will complete a catalog worksheet for each work of art, including such information as the artist's name and the medium used.~~

~~2.7. CREDITS. The donor will be named in the City's permanent record and whenever a work of art is exhibited unless the donor requests to be anonymous.~~

2.8. APPRAISALS. Neither the Commission nor the Public Art Committee Panel will provide to donors appraisals of donated ~~works of art~~. The Commission will require a donor to submit an appraisal of the donated work of art. The appraisal shall be completed by a member of the American Society of Appraisers for insurance purposes. This requirement may be waived at the discretion of the Commission.

~~2.9. INSURANCE. The City will insure, through commercial insurance or its own policy of self insurance, all completed works of art accepted for its collection for amounts and under conditions the City, with the advice of the Commission, deems appropriate. The City will not necessarily insure works or art for the amount at which such works are valued in appraisals submitted by donors or solicited by the city or the Commission.~~

EXHIBIT NO. 1

City of Alexandria, Virginia

9
6-24-08

MEMORANDUM

DATE: JUNE 19, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

SUBJECT: RECEIPT OF THE RECOMMENDED REVISIONS TO THE CITY OF ALEXANDRIA POLICY ON ACQUIRED ART

ISSUE: Receipt of the recommended revisions to the City of Alexandria Policy on Acquired Art.

RECOMMENDATION: That City Council:

- (1) Receive the recommended revisions to the City's Policy on Acquired Art as submitted by staff and the Alexandria Commission for the Arts (Attachment 1);
- (2) Schedule a public hearing for Saturday, September 13 to receive public comments on the proposed revisions to the City's "Policy on Acquired Art and schedule the policy for further consideration at the legislative meeting after the policy hearing and;
- (3) Thank members of the Commission for the Arts and the Commission's Public Art Committee for their efforts on behalf of City Council.

BACKGROUND: In September of 1987, City Council approved a document entitled: *Policy on Acquired Art*. This policy provides a mechanism for the acceptance of commissioned or donated art and requires the Alexandria Commission for the Arts, through its Public Art Committee, to review the art, assess design, consider installation and maintenance issues associated with the proposed art, hold a public comment period, and make a recommendation to City Council on whether or not the City should accept the artwork. The final authority to accept or decline the artwork lies with City Council.

DISCUSSION: The *Policy on Acquired Art* has been reviewed by the Commission for the Arts and City staff. The Commission and City staff changed language viewed as outdated and cumbersome. The recommended revisions to *the Policy on Acquired Art* include simplifying and clarifying the language of the policy and streamlining and combining the policy for art purchases, commissions and donations into a single policy.

The recommended revisions to the policy reflect the Public Art Committee's study of art policies from other jurisdictions in the United States. The Commission and staff also conducted a study of the public art policies in the Commonwealth of Virginia (Attachment 2). Those jurisdictions in Virginia that were studied include: the Cities of Charlottesville, Norfolk, Richmond, Roanoke and Arlington County. Attachment 2 provides a matrix that shows how each jurisdiction addresses the following: Definition of Public Art, Permanent Works, Temporary Works, Governance, Public Art Committee, Administration, Site Selection, Artist Selection, Funding, and Rights of the Artist or Donor.

While all five jurisdictions do not provide policy direction for each of the thirteen specific areas that are shown on the chart, all of the jurisdictions have a provision for the following: Definition of Public Art, Governance, Public Art Committee, Administration, Site Selection, Artist Selection, Funding, Rights of the Artist or Donor, Percentage and Type of Funding. In addition, the majority of jurisdictions studied, have provisions for the remaining items that are in the Recommended changes for the City Alexandria *Policy on Acquired Art*: Permanent Works, Temporary Works, Maintenance, Deaccession, and Percentage and Type of Program.

The Public Art Committee and the Commission deliberated over the specific needs of the City of Alexandria, and have taken into account the history of public art in the City. These revisions are proposed in an effort to stay current with the public art standards for purchasing, commissioning, accepting and declining donations of art. The updates to the *Policy on Acquired Art*, will help establish a stronger foundation for a comprehensive public art program for the City.

In summary, the recommended major revisions to the Policy on Acquired Art include:

- Creating of the purpose and goals of the policy
- Limiting the number of projects a single artist can have in the City of Alexandria to no more than one art project by any artist within the period of seven years
- Identifying responsibility roles for the Department of Planning and Zoning and, Recreation, Parks and Cultural Activities
- Creating of definitions for the language used in the policy
- Defining the creation of, make up, role and working mechanism of the Public Art Committee
- Increasing the membership of the Public Art Committee from 5 to 13
- Establishing a clear process for public notice
- Establishing the rights and responsibilities of the artist and or donor and, the City
- Requiring installation instructions and maintenance instructions for ongoing care of the art and addressing the potential creation of an escrow account for the art to cover ongoing maintenance costs
- Enhancing the City's ability to de-accession a work of art, and identifying that the disbursement of funds from potential sale proceeds, be allocated to the Commission for the Arts

On July 15, 2008 the Commission for the Arts will conduct a public hearing on the revised Policy for Acquired Art draft. Notice for the public hearing will be advertised throughout the City of Alexandria to ensure there is adequate notice given for public comment. The public comments received at the Commission public hearing will be included in the presentation to City Council at the September City Council public hearing.

FISCAL IMPACT: Proceeds from the sale of deaccessioned art would be allocated to the Commission for the Arts.

ATTACHMENTS:

Attachment 1. Revisions to the City's *Policy on Acquired Art*

Attachment 2. Chart Comparing Public Art Policies in Five Other Jurisdictions

STAFF:

Kirk Kincannon, Director, Recreation, Parks and Cultural Activities

Aimee Vosper, Division Chief, Recreation, Parks and Cultural Activities

Cheryl Anne Colton, Cultural Arts Administrator, Recreation, Parks and Cultural Activities

(Attachment 1.)

Policy On Acquired Art

City of Alexandria

**CITY OF ALEXANDRIA'S POLICY
FOR THE PURCHASE, COMMISSION AND DONATION
OF WORKS OF ART
BY THE CITY OF ALEXANDRIA**

The purpose of this Policy is to promote and encourage private and public entities to further the development and public awareness of and interest in art and cultural activities in the City of Alexandria. The goal is to integrate art into the City and to encourage economic development, stimulate interest in art and enhance Alexandria's reputation as a national leader in the arts. This Policy seeks to provide for future artistic endeavors and the promotion of Alexandria's cultural heritage, strengthen community pride and foster tourism.

SECTION ONE -- GENERAL PROCEDURE

- 1.1. **RESPONSIBILITY.** The authority ~~ultimate responsibility~~ for the purchase, ~~including the commissioning and acceptance of works of art by the City of Alexandria (the "City")~~ is rests with the City Council. It shall be the policy and practice for the City Council to seek a formal recommendation from the Alexandria Commission for the Arts (the "Commission") when ~~a work of art is to be purchased, commissioned or donated to the City or when funding for educational and other art related programs is requested.~~ The Commission and its subordinate bodies, the Public Art Committee shall act in accordance with ~~this Policy Statement and any internal guidelines established by the Commission.~~
- a. To encourage artistic expression in Alexandria no more than one art project by any one artist shall be acquired, donated, commissioned, or funded within a period of seven (7) years. All exceptions to this procedure must be approved by the City Council, the Commission and the Public Art Committee.
- b. Prior to the approval of any art acquisition, commission, donation, purchase or funding for a program, a site for the work must be pre-identified and approved by the Recreation, Parks and Cultural Activities Department and the Planning and Zoning Department along with the Commission, the Public Art Committee, and other appropriate City departments or committees, in addition, the art acquisition, commission, donation, purchasing, or funding for a program must be approved by City Council.
- c. The City may negotiate public art pieces on private property as part of the site planning process. The Recreation, Parks and Cultural Activities Department and the Planning and Zoning Department along other City departments will work with the Commission on these private public art projects.

- 1.2. DEFINITIONS: Alexandria Commission for the Arts shall be defined as § 2-4-90 of the Code of the City of Alexandria (1981) as amended.
- a. City Council, shall mean the Alexandria City Council as defined in § 2-1-1, et. seq., of the Code of the City of Alexandria(1981 as amended.
 - b. Permanent Works of Public Art or Permanent Art Programs work mean all works of art purchased, donated, commissioned or funded which shall be displayed or kept for two years or more, and shall be subject to competitive selection. Such process shall have been approved by the Commission and the Public Art Committee. All exceptions to this procedure must be approved by the City Council.
 - c. Public art, as defined by this policy, encompasses the broadest definition of art including the imaginative use and interplay of all artistic disciplines, including but not limited to performing arts and street fairs. Public art governed by this Policy shall be art that is visually or physically accessible to the public that is acquired by City funds, donated to the City, or approved by the City Council.
 - d. Public Art Committee shall be established by the Alexandria Commission for the Arts to advise the Commission regarding, purchase, commission, donation and funding of art.
 - e. Public art project shall mean:
 - (1) The commissioning of permanent works of art designed for specific public sites in Alexandria;
 - (2) The loan, purchase, donation or commission of art deemed appropriate for public sites;
 - (3) Artists contracted to work as integral members of architectural, infrastructure, and urban design teams; and,
 - (4) Installations, artist-in-residence programs, and other short term projects or planning activities that result in the creation of temporary or permanent public art.
 - f. Site Integrated Works of Public Art is art that is physically a part of a facility that cannot be removed or relocated without destroying the artwork. The lifespan of a site integrated work of public art can be temporary or permanent but terminates the end of the City ownership or with the demolition of the facility or specific site in the facility such as a wall, floor or as well, outside plaza areas.

g. Temporary Works of Art or Programs shall mean any art or program which is displayed in City owned public place or space for a period up to two (2) years. Temporary works of art may be displayed, commissioned or funded without the use of a competitive selection process.

1.2.3. ~~PUBLIC ART COMMITTEE: REVIEW PANEL.~~ The Commission shall establish and appoint the members of a Public Art Committee (the "Committee") to advise the Commission on the purchase, commission, donation and funding of works of art.

1.3.2-1. The Committee will consist of up to thirteen (13) ~~five~~ members, as follows:

- (1) One Commissioner from the Commission for the Arts with expertise in art;
- (2) Up to five (5) persons who reside or work within the City with expertise in urban planning, landscape architecture and/or architecture;
- (3) Up to five (5) persons who reside within the City such as an ~~two~~ artists or arts professional; and ~~who reside or work in the City;~~
- (4) Two (2) persons who reside in the City with an interest in art.
~~two artists or art professional who may or may not reside in the City; and one citizen resident of the City.~~

1.3.2. The Chair of the Public Art Committee shall be appointed by the Chair of the Commission for the Arts.

1.3.2.3. Committee members will serve three-year terms. ~~Initial terms will be two three year terms, two two year terms and one one year term to be determined by lot.~~ Committee members may serve a maximum of one two full three-year terms. Members may be reappointed to the Public Art Committee after a hiatus of two years.

~~1.2.3. The Committee will have the right as it deems appropriate to appoint subordinate bodies and to consult Commission Resource Panels for advice on the acquisition of particular works of art.~~

- 1.3.2.4. The Committee will make its recommendations to the Commission regarding acquisitions, donation, commission and/or funding of ~~particular works of art~~ at the request of City Council as expeditiously as possible. ~~next regular Commission meeting held after the Commission requests the Committee's assistance unless a different timetable is agreed upon by the Commission and the Committee.~~
- 1.3.2.5. Members of the Committee are subject to all conflict-of-interest policies of the ~~Commission~~, the City of Alexandria and Commonwealth of Virginia as detailed in Appendix A.
- 1.4.3. **PUBLIC NOTICE. ~~CITIZEN INVOLVEMENT.~~** The public shall be notified of a prospective purchase, commission, donation or funding of art, to the extent practicable, by notification in the local newspaper, on the City's website and the Commission for the Arts website. In addition, ~~The public will be encouraged to express opinions, in writing, to the Commission.~~
- ~~1.3.1.~~ a photograph or model or other means of notification may be used. Such notification shall be made at least two (2) weeks prior to the date of ~~of a prospective purchase (including as much information about the work as possible) will be displayed for public viewing in one or more prominent areas within the City at least two weeks before the Commission meetings~~ to consider the acquisition, purchase, donation, or funding of the art or program. If the purchase or acquisition involves public funding, notice and information about the public art will be in the public notice in a local newspaper and posted on the City's website.
- 1.5.4. **COMMISSION RECOMMENDATION.** After a review of the Public Art Committee's report, the Commission shall adopt a formal recommendation to the City Council. ~~relating to the proposed acquisition of any work of art by the City.~~
- 1.6.5. **FUNDING.** Commission funds ~~will be~~ may be set aside for the acquisition and commission of art in accordance with this Policy ~~Statement.~~ The Commission may also seek other sources of funding for this purpose.
- 1.7.6. **REFUSAL.** The Commission reserves the right to recommend that the City Council refuse any work of art.
- 1.8.7. **WORKS OF HISTORIC VALUE.** This policy shall not apply to any existing or future policies and procedures of the City of Alexandria and the Office of Historic Alexandria relating to works of historic interest and/or historic value.

1.9.8. COMMISSION REVIEW REQUIRED. Except as provided for in, paragraph 1.8.7, above, all works of art purchased with City funds are subject to this Policy ~~Statement~~ and guidelines promulgated by the Commission.

1.10.9-ART OWNED, FABRICATED OR DONATED BY A CITY EMPLOYEE. ~~PRIOR APPROVAL OF CITY ATTORNEY.~~ No work of art owned by, under the control of or fabricated by a City employee shall be eligible for purchase or commission by the City without the prior approval of the City Attorney.

SECTION TWO

RIGHTS AND RESPONSIBILITIES OF THE ARTIST, DONOR AND THE CITY OF ALEXANDRIA

- 2.1. **WRITTEN PURCHASE AGREEMENT.** No work will be purchased without a written agreement between the artist and/or donor and the City. The agreement must be ~~which has been approved by the City Council and signed by the City Manager or his designee.~~ Such agreement shall, prior to its submission to the City Council, be approved by the Commission and, as to its legal sufficiency, by the City Attorney.

~~Sample standard contracts indicative of a typical agreement for the purchase of a work of art and typical agreement for the Commission of a work of art are attached to this Policy Statement. The Commission and the City Council may vary the terms of either if these sample agreements as circumstances require.~~

The City may require the Artist to waive all rights that she/he may have under the Visual Arts Rights Act, 17 U.S.C. § 101 et seq. (1990) ("VARA") to protect the City's interest. This waiver will permit the City to relocate, remove or deaccession the art. However, the City will make reasonable efforts to notify the artist before removal or relocation. In any event, the City has the right to relocate or remove art without notification to the Artist under emergency situations where art poses a threat to public safety or may harm public property.

- 2.2. **SITE-SPECIFIC WORKS OF ART.** Unless otherwise agreed to in writing, ~~by contract the artist or donor shall will be responsible for fabrication, transportation, and installation, and maintenance of the art works.~~ The City will not assume liability for injuries to persons or property during installation. ~~of works.~~
- 2.3. **MAINTENANCE.** The artist or donor shall provide detailed instructions for the maintenance and ongoing care of the art, including future maintenance cost. The artist or donor ~~may be required to fund an escrow account to cover the costs of maintaining the art.~~
- 2.4. **INSTALLATION.** The artist or donor shall provide detailed instructions for the installation requirements of the art and shall be responsible for fabrication, transportation and installation costs of the art. The artist or donor may be required to escrow funds to cover the costs to install the art.

2.5. ~~2.4.~~ **RECORDS.** The Commission or of its agent(s) will maintain a permanent record of art works owned by the City.

~~2.4.1~~ The Artist must complete a catalog worksheet supplied by the City before final payment for the work will be processed. The worksheet will include such information as the artist's name and the medium used.

2.6. ~~2.5~~ **CREDITS.** A notice, including but not limited to, the artist's and/or donor's name and stating that mentioning the City is the owner of the art, ownership, will be publicly displayed and identified with the art-work. In the event the donor requests to remain anonymous, the credit will reflect this. This notice will be fabricated, installed and paid for by the City. The Commission will approve the design of the notice.

2.7. **INSURANCE.** The City will insure, through commercial insurance or its own policy of self-insurance, all completed works of art purchased by the City for amounts and under conditions the City, with the advice of the Commission, deems appropriate. The City will not necessarily insure works of art for the valued amount set forth in an appraisal submitted by donors or other valuations submitted by donors.

2.8.3. **DEACCESSIONING.** Deaccessioning means the formal process used to remove a work of art from the City's collection.

~~2.7.3.1.~~ This Policy Statement specifically contemplates that works from the City's collection may, from time to time, be sold or otherwise disposed of.

~~2.7.3.~~ Proposals to the City Council with respect to deaccession of works from the City's collection shall be previously considered by the Commission and the Panel.

~~2.7.3.2.~~ In determining whether any art work is to may be deaccessioned, the following factors may be considered: consideration is given to:

- a. the City's ability to continue properly to preserve or care for the work;
- b. the extent to which the work may, in the context of the collection, be surplus, redundant, or a duplicate or of inferior quality;
- c. the extent to which the disposition of the work may, whether by exchange or through use of proceeds derived from its sale, permit the City to upgrade and refine the collection; and/or

- d. whether such work has been found to have been falsely documented, described or attributed and/or to be a forgery;
- e. whether the artist or donor has failed to comply with the terms of any contract with the City; and
- f. whether deaccessioning of the art would be in the best interest of the City.

2.7.3.3. No work that has been acquired by the City with a restriction as to its retention may be deaccessioned while such restriction remain in force. The Recreation, Parks and Cultural Activities Department through the Commission or designee of its agent shall be notified by the City Council of all such restrictions at the time of acquisition and will maintain a record of those restrictions.

2.7.3.4. If art was a work originally received as a gift for a still-living donor or purchase from a still-living artist, the City will, as a matter of courtesy, notify that person of any determination made by the City to deaccession that work.

2.7.5. The following methods of deaccession may be considered: exchange, public auction and private sale. If the work is sold, the proceeds from the sale of the deaccessioned work will be appropriated to the Commission. The details of the manner in which any deaccessioned work has been disposed of shall be a matter of public record.

~~2.7.3.6. The manner in which a collection work which has been deaccessioned is to be disposed of shall be determined by the City Council with the advice of the commission. Except in the case of a work which has been found to have been falsely documented, described or attributed and/or to be forgery, no single method is considered preferable for every instance. Among the method which~~ The following methods of deaccession may be considered:
are:

- a. exchange;
- b. public auction; and
- e. private sale.

~~2.7.3.7. In the case of a work which is found to have been falsely documented, described or attributed and/or to be a forgery and which is subsequently deaccessioned, additional consideration must be given to the protection of the public's interest. Depending upon the manner in which the work was originally acquired and all of the surrounding circumstances, consideration may be given to:~~

- ~~a. rescinding any purchase by which the work was required;~~
- ~~b. depositing the work on a long term basis in a scholarly archive devoted to the study of such material; and/or~~
- ~~c. except in the case of a forgery and only if any error in the work's documentation, description or attribution will not thereby be perpetuated, public auction or private sale.~~

~~2.7.3.8. The details of the manner in which any deaccessioned work has been disposed of shall be a matter of public record.~~

~~2.7.3.9. If a work of art was purchased by the City from an artist is sold by the City during the lifetime of that artist, the artist shall be entitled to a royalty equal to seven (7) per cent of the difference between the City's purchase price and the gross sale price or fair market value of any property received in exchange for the work. This paragraph will not apply to the following:~~

~~2.3.9.1. 1. The resale of a work for a gross sale price less than \$500, or in exchange for property with a fair market value of less than \$500; and~~

~~2.3.9.2. 2. The resale of a work for a gross sale price of less than 140 per cent of the purchase price paid by the City, or in exchange for property with fair market value of less than 140 per cent of the purchase paid by the City.~~

~~2.7.3.10. Proceeds from the disposition of deaccessioned works will be returned to the Commission's purchase fund.~~

**POLICY
FOR THE ACCEPTANCE OF DONATIONS
OF WORKS OF ART
BY THE CITY OF ALEXANDRIA**

SECTION ONE — PROCEDURE

~~1.1. RESPONSIBILITY. The ultimate responsibility for the acceptance of donations of works of art by the City of Alexandria (the "City") rests with the City Council. It shall be the policy and practice for the City Council to seek a formal recommendation from the Alexandria Commission for the Arts (the "Commission") when a work of art is offered to the City as a gift. The Commission and its subordinate bodies shall act in accordance with this Policy Statement and any internal guidelines established by the Commission.~~

~~1.2. REVIEW PANEL. The Commission shall establish and appoint the members of a Public Art Committee (the "Committee") to advise the Commission on each acceptance of donated works of art.~~

~~1.2.1. The Committee will consist of five members, as follows:~~

~~_____ two artists or arts professionals who reside or work in the City;~~

~~_____ two artists or arts professionals who may or may not reside or work in the City; and~~

~~_____ one citizen resident of the City.~~

~~1.2.2. Committee members will serve three-year terms. Initial terms will be two three-year terms, two two-year terms and one one-year term, to be assigned by lot. Committee members may serve a maximum of one full three-year term.~~

~~1.2.3. The Committee will have the right as it deems appropriate to appoint subordinate bodies and to consult Commission Resource Panels for advice on the acquisition of particular works of art.~~

~~1.2.4. The Committee will make its recommendations regarding acquisitions of particular works of art at the next regular monthly Commission meeting held after the Commission requests the Committee's assistance, unless a different timetable is agreed upon by the Commission and the Committee.~~

~~1.2.5. Members of the Committee are subject to all conflict of interest policies of the Commission, the City of Alexandria and the Commonwealth of Virginia as detailed in Appendix A.~~

~~1.3. CITIZEN INVOLVEMENT. The public will be encouraged to express opinions, in writing, to the Commission.~~

~~1.3.1. A photograph or model of prospective donation (including as much information about the work as possible) will be displayed for public viewing in one or more prominent areas within the City at least two weeks before the commission meets to consider the acquisition.~~

~~1.4. COMMISSION RECOMMENDATION. The Commission shall adopt a formal recommendation to the City Council relating to the proposed acquisition of any work of art by the City.~~

~~1.5. REFUSAL. The Commission reserves the right to recommend that the City Council refuse any work of art.~~

~~1.6. WORKS OF HISTORIC VALUE. This policy shall not apply to any existing or future policies and procedures of the City of Alexandria and the Office of Historic Alexandria relating to works of historic interest and/or value.~~

~~1.7. COMMISSION REVIEW REQUIRED. Except as provided in paragraph 1.6, all works of art offered as gifts to the City are subject to this Policy Statement.~~

~~1.8. PRIOR APPROVAL OF CITY ATTORNEY. No work of art owned by, under the control of or fabricated by a City employee shall be eligible for purchase or commission by the City without the prior approval of the City Attorney.~~

~~SECTION TWO — RIGHTS AND RESPONSIBILITIES
OF THE DONOR AND THE CITY~~

2.8 ~~POLICIES SPECIFIC TO DONATED ART.~~

~~2.8.1. LOANS. The City will consider accepting works of art on loan where it determines that acceptance of the loan of the work will be in the best interests of benefit the City. All such loaned art shall be for a definite time period, based on the life of the donor.~~

~~2.8.2. LIFE ESTATES. The City will consider accepting the donation of any work of art in which the donor or one or another person retains an interest for life where it determines that acceptance of the work will be in the best interest of the City.~~

~~2.8.3. FRACTIONAL INTERESTS. The City will consider accepting the donation of fractional interest of any work of art where it determines that acceptance of the work will be in the best interest of benefit the City.~~

~~2.8.4. COPYRIGHT. Each donation must be accompanied by a clear statement from the donor regarding ownership of the copyright for that the work of art.~~

~~2.5. DEACCESSIONING. Deaccessioning means the formal process used to remove a work of art from the City's collection.~~

~~2.5.1. This Policy Statement specifically contemplates that works from the City's collection may, from time to time, be sold or otherwise disposed of.~~

~~2.5.2. Proposals to the City Council with respect to deaccession of works from the City's collection shall be previously considered by the Commission and the Panel.~~

~~2.5.3. In determining whether any work is to be deaccessioned, consideration is given to:~~

- ~~— The City's ability to continue to properly preserve or care for the work;~~
- ~~— The extent to which the work may, in the context of the collection, be surplus, redundant, or a duplicate of inferior quality;~~
- ~~— The extent to which the disposition of the work may, whether by exchange or through the use of proceeds derived from its sale, permit the City to upgrade and refine the collection; and/or~~
- ~~— Whether such work has been found to have been falsely documented, described or attributed and/or to be a forgery.~~

- ~~2.5.4. No work which has been acquired by the City with a restriction as to its retention may be deaccessioned while such restriction remains in force. The Commission or its agent shall be notified by the City Council of all such restrictions at the time of acquisition and shall maintain a record of those restrictions.~~
- ~~2.5.5. If a work was originally received as a gift from a still living donor or purchased from still living artist, the City will, as a matter of courtesy, notify that person of any determination made by the City to deaccession that work.~~
- ~~2.5.6. The manner in which a collection of work that has been accusable is to be disposed of shall be deaccessioned is to be disposed of shall be determined by the City Council with the advice of the Commission. Except in the case of a work that has been found to have been falsely documented, described or attributed and/or to be forgery, no single method is considered preferable for every instance. Among the methods which may be considered are: Exchange; Public auction; and Private sale.~~
- ~~2.5.7. In the case of work which is found to have been falsely documented, described or attributed and/or to be a forgery and which is subsequently deaccessioned, additional consideration must be given to the protection of the public's interest. Depending upon the manner in which the work was originally acquired and all of the surrounding circumstances, consideration may be given to:~~
- ~~— Rescinding any purchase by which the work was acquired;~~
 - ~~— Depositing the work on a long term basis in a scholarly archive devoted to the study of such material; and/or~~
 - ~~— Except in the case of a forgery and only if an error in the work's documentation, description or attribution will not hereby be perpetuated, public auction or private sale.~~
- ~~2.5.8. The details of the manner in which any deaccessioned work has been disposed of shall be a matter of public record.~~
- ~~2.5.9. If a work which was donated to the City by an artist is sold by the City during the lifetime of that artist, the artist shall be entitled to a royalty equal to seven (7) per cent of the difference between the City's purchase price and the gross sale price or the fair market value of any property received in exchange for the work. This paragraph will not apply to the following:~~
- ~~2.5.9.1. — The resale of a work for a gross sale price of less than \$500, or in exchange for property with a fair market value of less than \$500; and~~

~~2.5.9.2. The resale of a work for a gross sale price of less than 140 per cent of the purchase price paid by the City, or in exchange for property with a fair market value of less than 140 per cent of the purchase price paid by the City.~~

~~2.5.10. Proceeds from the disposition of deaccessioned works will be returned to the Commission's purchase fund.~~

~~2.6. RECORDS. The Commission or its agent(s) shall maintain a permanent record of works owned by the City.~~

~~2.6.1. Donors will complete a catalog worksheet for each work of art, including such information as the artist's name and the medium used.~~

~~2.7. CREDITS. The donor will be named in the City's permanent record and whenever a work of art is exhibited unless the donor requests to be anonymous.~~

2.9 APPRAISALS. Neither the Commission nor the Public Art Committee Panel will provide to donors appraisals of donated works of art. The Commission will require a donor to submit an appraisal of the donated work of art. The appraisal shall be completed by a member of the American Society of Appraisers for insurance purposes. This requirement may be waived at the discretion of the Commission.

~~2.9. INSURANCE. The City will insure, through commercial insurance or its own policy of self insurance, all completed works of art accepted for its collection for amounts and under conditions the City, with the advice of the Commission, deems appropriate. The City will not necessarily insure works or art for the amount at which such works are valued in appraisals submitted by donors or solicited by the city or the Commission.~~

Chart Comparing Public Art Policies of Five Jurisdictions

Attachment 2

| Provision | Alexandria Current | Alexandria Proposed | Arlington, VA | Charlottesville, VA | Norfolk, VA | Richmond, VA | Roanoke, VA |
|-----------------------------|--|--|---|---|---|---|--|
| Definitions: | | | | | | | |
| Public Art | No definition in policy | Broadest definition inc. all disciplines, performing arts & street fairs accessible to the public whether purchased, loaned, commissioned or donated | Original or limited multiple edition works of art Accessible to the public and may possess functional as well as aesthetic qualities. All forms in any discipline or medium | Includes but is not limited visual art—original work that includes drawings, paintings, murals, graphic art, sculpture, photography, bas relief, mixed media art and other appropriate art forms. | Visual arts works: sculpture, earthwork, drawing, painting, fresco, mosaic, photograph, neon, glass, limited edition print or calligraphy, sound, literary elements, videofilm, hybrids of any existing media or new genres, or, integral to architecture and landscape | Sculpture, painting, photograph, waterworks, mosaic, crafts, mixed media, decorative, ornamental or functional elements, murals, earthworks and environmental artworks | Original or limited edition works of art in any discipline or medium accessible to the public, encompasses the broadest definition of visual arts including the imaginative use of interplay of all artistic disciplines. Sculpture and paintings, aesthetic enhancements such as foundations, landscaping, textured walls, mosaics, tiles columns, patterned pavement, gridwork, and other ornamentation |
| Permanent Works | No time limit in policy | Displayed or kept 2 years or more. | Displayed or kept 3 years or more | Pieces purchased from time to time through the Art In Place competition. Timeframe not defined | Deaccessions not before 10 years | Not defined | Not defined |
| Temporary Works | No time limit in policy. | Displayed up to 2 years May be purchased who competitive process | Displayed or kept less than 3 years | Works with the Art In Place organization to annually install temporary pieces in community | Not defined, relocation or removal are however options articulated. Able to have temporary installations for community projects and for educational outreach for projects | Not defined | Not defined |
| Governance | Recommendations made by Public Art Committee to Commission for the Arts Final authority for acceptance with City Council | No changes | Recommendations made by Commission for the Arts to County Board. | Recommendations made by the Art & Sculpture Committee of the Piedmont Council of the Arts, who then makes a recommendation to Recreation Department, who then Piedmont Council along with Recreation Department makes recommendation to City Council who has final authority to accept permanent pieces. | Public Art Commission makes recommendation to City Manager. City Manager determines if City Council needs to approve | Public Art Commission appointed by Planning Commission. PAC Recommends to Planning Commission Submits approvals through OMB and City Manager's Annual Budget | Roanoke Arts Commission makes recommendation to City Manager. City Manager makes recommendation to the City Council for approval. Commission advises Council on all matters related to public art. |
| Public Art Committee | 5 members | 13 members chaired by a member of the Commission | Subcommittee of the Arts Commission - 7 members Landscape Designer sits on the selection committee for the selection of the artist. | Director of Recreation Department sits on Board of Directors of the Art In Place organization and the Department's Landscape Designer sits on the selection committee for the selection of the artist. Art and Sculpture Committee of Piedmont Council of the Arts works with Recreation Department with selection of permanent art in City facilities | Eleven members appointed by City Council. Member from Planning Commission, Design & Review and the Arts and Humanities have standing seats on PAC | Eleven members w/ staggered 3 yr terms, Director of Community Development holds permanent seat. | Fifteen members appointed by City Council |
| Administration | Department of Recreation, Parks & Cultural Activities | No changes | Department of Parks, Recreation and Community Resources | Department of Recreation and Parks | Department of Cultural Facilities, Arts and Entertainment, Bureau of Cultural Affairs and Special Events w/ PAC | Department of Planning Inves Public Art Coordinator to work w/PAC | Department and Division of Economic Development. City Manager responsible for public art and public art inventory. |
| Site Selection | Case-by-case basis for the site selection, Arts Commission, Public Art Committee and other departments or committees assist with the site selection, not pre-identified prior to acceptance and approvals. | Pre-identified prior to acceptance and approvals by City Council, Arts Commission, Public Art Committee and other departments or committees assist with the site selection | County-initiated projects located on sites identified in Public Art Master Plan. County may negotiate public art on private property as part of site planning process Community-initiated projects may also be proposed by application to County. | Site selection for temporary installations proposed by Art In Place, then Director of Recreation Department works with Traffic, Public Service and Utilities Departments to get approvals for the site. Landscape Designer of Recreation Department involved with developing the recommendation. | City Depts work with Public Art Commission on projects over \$500,000 places 1% in Public Art account for Bureau art projects Project Planning Committee determines site for public art. | City Depts work with OMB for public art projects in excess of \$250,000 arts works receive 1% of total cost. Public art projects. Site Selection Team determines location and seeks approvals as necessary. | City initiated projects, 1% of projects. Private projects to be included with proposed site plans. Commission reviews the public art proposal and makes a recommendation to developer and City for appropriateness to site plan. Community initiated, groups, or neighborhood association propose a public art project for site on or not on the public art site plan, they apply for City funds to implement project. |

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| Provision | Alexandria Current | Alexandria Proposed | Arlington, VA | Charlottesville, VA | Norfolk, VA | Richmond, VA | Roanoke, VA |
|---------------------------------|--|---|---|--|--|---|--|
| Artist Selection | Open competition, Invitational competition or direct selection | No changes | Open competition, invitational competition or direct selection | Open competition, limited competition, and by direct purchase. Appropriate selection method determined by the review committee. Procedures for the selection of the art developed as the proposal process to solicit art. | Open competition, invitational competition or direct selection | Open competition, Pre-qualification of Bidders, or Direct Solicitation/Sole Source | Open competition, invitational competition or direct selection |
| Funding | Commission funds and donations can be used for public art. Public art in private development projects is negotiated through the Planning & Zoning Department as part of the site planning process. | No changes City retains ownership. Developer projects negotiated case-by-case | Direct county funding, biannual amount up to .5% of CIP budget. Developer contributions negotiated as part of site planning process deposited in Public Art Fund and administered by Department of Parks, Recreation and Cultural Resources which provides staff and general program support. | Direct City funding from City's CIP and partnership programs greater than \$100,000. 1% of total cost of the project to be set aside to commission or purchase art for a project or public spaces. Annually \$10,000 given to Art in Place to conduct temporary public art competition | Direct funds through CIP of project in excess of \$500K get 1% of cost, also private sector can contribute funds or art reviewed by PAC w/ recommendation to City Manager | Direct funds through annual CIP of projects in excess of \$250K get 1% of cost, also private sector funds through Community Foundation. Negotiated with developers w/ PAC and Planning Department | Direct funds through CIP project, no more than \$100K per eligible project may be allocated through the 1% calculation. Private sector and community projects have not yet occurred. |
| Maintenance | Requirement to submit maintenance plan, but not in policy | Artist or donor to provide a detailed instruction and maintenance plan, may be required to fund escrow account for maintenance. | County-subsidized projects maintained by County. | Not defined | Reserve funds for maintenance % of project. Actual % not articulated | 5% reserved for maintenance of public art project maintained by City, 5% reserved for maintenance of public art project by private sector governed by Public Art Fund w/ County Foundation | Not yet defined |
| Deaccession | If gift or commissioned piece becomes "hazard or liability," falsely documented, or in best interest of the City, may be relocated, sold or disposed of. If work is sold, the proceeds from sale to be appropriated to Commission. | Simplified the process for deaccession detailing the methods and processes and updating the language. | If gift or commissioned piece becomes "hazard or liability," may be relocated. Developer pieces to be conserved if possible or replaced at developer expense | Not defined | Concerns about condition or security of art, excessive maintenance or defaults, endangerment of public safety, significant changes in use, character or design of site or replacement of work for something more appropriate by same artist(s). PAC reviews circumstances, written report prepared to City Manager, artist has right for first buy back. | Not defined. | If piece becomes "hazard or liability," may be relocated or moved. City Manager brings these issues to the Roanoke Art Commission for study and recommendation for removal or Relocation. Private sector pieces not defined. |
| Percentage and Type of Programs | Not in policy | Public: Goal of .5 -1% in public facilities Private: negotiation goal of 1/2-1% in developer contribution | Public: Goal of up to .5% of CIP Private: Determined by precedent currently \$75K per site plan; this amount currently under review | Public: 1% Private: N/A | Public: 1% Private: Negotiation a goal of 1% | Public: 1% Private: Negotiation a goal of 1% | Public: 1% Private: Negotiation no goal set |

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**ALEXANDRIA COMMISSION FOR THE ARTS
SIGN-IN SHEET**

July 15, 2008
Dr. Oswald Durant Memorial Center

| Full Name | Address | Phone Number | E-mail Address |
|------------------------|--|--------------|----------------------------|
| Alan Wise | 4625 L. The Falls Dr Arlington, VA 22207 | 703-538-6526 | alan.wise@comcast.net |
| SHERRY BROWN | 1600 PRINCE #603 AVE 22314 | 703-549-4696 | SHERRYWBROWN@AOL.COM |
| Julie Cracher Va Fleet | 26 Waipr St. | 71548-7906 | |
| JOHN GOSLING | 208 S. FAYETTE ST | 703 683 1415 | Kops.gosling@verizon.net |
| Cheryl Anne Colten | 1001 Rymey Dr Alexandria | | |
| Katy Cannady | 20 E. Oak St 22301 | 703 549-9386 | Katy-Cannady20@comcast.net |
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| PAUL GMEINBERG | 726 POTOMAC ST 22314 | 703-684-8795 | PAULGMEINBERG@AOL.COM |
| Linda Napu | 105 N. Union Ave 22314 | 703-549-5450 | linda@theartleague.org |
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Alexandria Commission for the Arts
Public Hearing: Policy on Acquired Art

July 15, 2008 - Durant Center

Speakers:

Julie Crenshaw Van Fleet:

- Not a lot of objections to the policy
- Additions to the policy:
 - the historic District needs to be included in all discussions
 - representative groups need to be involved
- Commission for the Arts needs to be taken out of the Recreation Department
 - placed in a higher level who deals with Art
 - with History, Torpedo Factory etc. who deals with Art
 - being held back in Recreation Department
- Not a lot of suggestions to the policy
- Parker Gray to be included in getting notice about public art
- Van Alstine – no business in historic district
- National Gallery 18th Century
- Traditional art
- Arts has no business with Recreation Facilities
- bring in people most interested

Alan Wile: Alexandria Arts Forum

- Policy is very comprehensive
- Need this type of paper to assist with the Art
- Major start and effort
- Broaden it as it has been done
- Important to be on books for commission to move forward
- Congratulations on a major effort

Katie Kennedy:

- Arts policy to be as art is accepted it is a gift
- Never allow a provision to keep any piece forever
- Welcome gifts, when received we can do what we want
- Meeting D. Speck for KSGP
- 200 signatures to go away
- Accepted with forever with artist agreement
- Since when accepting art as a gift we should never allow site specific art
- City to make decisions as to location
- Charging -city should be charging

Sherry Brown:

- Good policy, expands
- But 2.1 requires artists to give up their rights

- Address concerns in the contract instead of giving up all rights
- Will still protect the policy and the City
- policy expands is enabling
- "2.1. artists to give up rights" (check standard)
- Concerns to be more addressed in contract

Poul Hertel: Old Town Civic Association

- Need for more Public notice
- Well publicized notice of placement with the Old Town Civic and other civic groups and historic groups
- Send out email with comments

John Gossling:

- Public Art –element of urban design
- Need to be out of Parks and Recreation and in the Planning decisions
- Art should be more interactive: light, sound, water, etc.
- Art moves in and out
- Think about programming art
- Need to have a public art trust fund
- refer to example of Portland, OR and Edinburg, Scotland

Tony (Urban Design)

- Public Art
- Urban design vocabulary to make city interesting
- part of the Planning & Zoning Urban Design
- Art is more interactive
- Light//active water, sound, seasonal
- Programming art//temporary art
- Public Art Trust Fund
- Check out: Portland, Oregon and Edinburg, Scotland



"Washington Metropolitan
Philharmonic Association"
<wmpa@earthlink.net>

07/09/2008 02:16 PM

Please respond to
<wmpa@earthlink.net>

To <CherylAnne.Colton@alexandriava.gov>

cc

bcc

Subject Public Art

Hi Cheryl Anne,

I just read through the proposed revisions, and stumbled on two items which were not clear:

Paragraph 1.3.1.(3) – I can't make sense of the wording because of the "such" word. I suppose it means that up to 5 persons who reside or work within the City are artists or arts professionals.

Paragraph 1.4 seems to have a duplicative sentence in it regarding "notice and information about the public art will be in the public notice in a local newspaper and posted on the City's website." The same statement appears twice, once for prospective purchase and once for purchase or acquisition that involves public funding. It seems that that concept can be written so that it applies to both cases without repeating the needed action.

Both the above are nitpicking. I did not see anything else that seemed out of place, nor did I attempt to compare the past policy with the proposed – I do not know much about the subject.

Hope this helps. I will not be able to attend the meeting as I'll be enroute to New Hampshire.

UI

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OLD TOWN CIVIC ASSOCIATION

Alexandria Commission for the Arts Hearing on Acquired Art Policy
July 15, 2008

Dear Art Commission Members

Please find below our comments for this evening's docket and thank you for your consideration.

OLD TOWN CIVIC ASSOCIATION BOARD OF DIRECTORS

Poul Hertel
President

The Board of the Old Town Civic Association (OTCA) has three elemental issues regarding the manner you have approached the placement of public art. There is a need for public notification and dialogue, a need for a proper review of available public spaces throughout the City and study of specific needs. Finally, the art pieces must be placed in locations throughout the City that offer the proper context.

1. Public participation/Notification

Public art as suggested involves the public space and as such the public itself. This is why informing the public of possible placements of art objects, ought to be paramount in your process.

The Arts Commission should have well publicized public hearings regarding the placement of public art. Your web site might splendidly offer detailed reviews of the art, but it cannot serve as the conveyor of public notice. Instead, we request the direct notification of the OTCA and appropriate historic preservation groups regarding deliberations on art in public spaces in Old Town. Likewise, we request the same for other civic associations regarding the placement of art in their neighborhoods.

2. Deliberative process

The Board of the OTCA requests that before the City takes any action on the Fayette/King Street plaza or any other public space they look at the larger picture and undertake a comprehensive survey and analysis of the social life of the small scale urban open spaces scattered throughout Old Town.

It is the Board's observation that such spaces have always been a limited resource within Old Town and are now under increasing pressure to accommodate and balance the competing needs of growing numbers of visitors, workers and residents. These needs range from the relatively passive, such as the need for shade, planting, street furniture, water, seating, quiet people watching places, picnic areas, etc, to the need for active play space, or the need to promote public art, informational and environmental graphics, in ways that can enlighten, entertain, and inform the public.

The objective of the survey/analysis would be to use the results to expand upon existing guidelines (for example; those outlined in the "King Street Retail Strategy"), to address all elements of urban design in a more holistic fashion. The material becomes a tool that allows planning staff, urban designers, landscape architects, (and benefactors), make informed decisions on ways to balance competing needs and where to locate various urban design elements within the larger Old Town planning framework

3. Contextual Element

A given piece of sculpture in the proper setting will enhance the space by making the whole greater than the sum of its parts. However, an improperly situated piece will have the opposite result, and it does not respect the artist who created it.

Old Town Alexandria is famous for its historic ambiance, which is why the placement of public art matters a great deal. In the latest example, even the artist indicated that the site was not an optimal location. Unfortunately, OTCA was effectively precluded from voicing our concerns regarding this matter. It is important that the public be allowed to comment on the placement of public art.

Because all of us have converging interests in a historic yet vibrant Old Town, it is imperative that we achieve consensus on placement of Public Art in the correct context. Given enough examples of this sort, a lack of consensus can translate eventually into a lack of confidence.

Thank you for the opportunity to comment on this excellent policy' recommendation. I am so pleased that you want to put in Public Art to enhance so many sites in the City.

One minor suggestion: In Paragraph B on what other city agencies have a say in the selection process, you should specifically spell out that the BARs for the Old and Historic District, Parker-Gray and any other Districts that may be established have a say in the decision for sites within their boundaries.

Marian Van Landingham



VMGtheHill@aol.com
07/18/2008 02:01 PM

To cherylanne.colton@alexandriava.gov
cc
bcc
Subject (no subject)

History:  This message has been replied to and forwarded.

My comments are attached

Townsend "Van" Van Fleet

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Van Alstine Sculpture.doc

Dear Commission:

Alexandria is considered one of the most historic cities in the country. Four of our first five Presidents, who were Virginians, walked these streets on a daily basis. For the past 259 years people throughout the United States and Overseas have visited our city, because over the years we have vigilantly attempted to maintain our historic preservation.

In the 26 June edition of the Washington Post, the President of the Alexandria Sculpture Festival stated that “until now Alexandrians concept of contemporary art was George Washington sitting on a horse”. In addition, he also asserted that “Alexandria will come into the 21st Century” by accepting the Van Alstine sculpture. The fact of the matter is that the Guidelines of Historic Preservation in Alexandria (all 197 pages) truly reflect why we are oriented toward keeping this city in the 18th and 19th century not the 21st Century. We are one of a very small number of cities who have maintained their historic preservation.

The Council had every right to accept the sculpture. However, they were dictated to by the Alexandria Sculpture Festival who stipulated that the sculpture be placed at the southwest corner of King and Fayette Streets. This violates every tenant of a fair play, as it totally disregards the desires of the citizens residing in the Old and Historic District. The Council forgot to mention DUE PROCESS. The approval given the Alexandria Sculpture Festival essentially “end ran” the formal legislative process and went directly to Council. When can any Tom, Dick or Harry walk into the Mayor’s office and get instant approval for their project? It just doesn’t happen without going through the carefully laid out public hearing process? To make matters worse, Councilman Paul Smedberg, who is the only Council Member who lives in the Old and Historic District made the motion before Council to approve the acceptance and placement of the sculpture. So much for looking after the interests of one’s immediate constituencies. Please don’t tell us that you represent the interests of Old Town.

We already have one of these “red herrings” on the corner of King and Diagonal, it’s the “tri-foil” or the Colonial Hat. Why do we need another? Bit by bit many pejorative changes to the historic fabric of King Street are continually being approved by Council and the Board of Architectural Review (BAR). If we truly want our city to maintain its historic preservation we have to put the brakes on right now. Everyone I have talked to that has seen photos of the Van Alstine sculpture views it as a phalanx symbol. This is indeed a cruel joke on Alexandria’s citizenry. This sculpture will essentially be giving the citizens, tourists and passerbys “the bird”. I have a gut feeling that is exactly what was intended.

There are literally thousands of other suitable places outside the Old and Historic District where the Van Alstine sculpture can be placed. Van Alstine himself recommended the sculpture be placed on a grass parapet. The sculpture is not historically compatible with any other feature or structure within the historic district. The dysfunctional BAR at its hearing on the 9th of July approved this item. This was after they approved the demolition and encapsulation of the rear of a 100 year old flounder. Previously they put one citizen out of business in a similar case by failing to approve his request for demolition and encapsulation of the rear of his flounder in the 200 block of King Street. This body needs to be reconstituted!

**Townsend A. “Van” Van Fleet
26 Wolfe Street, Alexandria, VA
703-836-6402 (Work)
703-548-7906 (Home)**



Cheryl Anne Colton/Alex
08/04/2008 03:24 PM

To
cc
bcc
Subject Fw: Policy on Acquired Art feedback

----- Forwarded by Cheryl Anne Colton/Alex on 08/04/2008 03:24 PM -----



NEONKANB@aol.com
07/31/2008 03:10 PM

To CherylAnne.Colton@alexandriava.gov,
pmiller1806@comcast.net
cc MGLAIA@aol.com
Subject Policy on Acquired Art feedback

Dear Pat and Cheryl Anne,

Greetings! Marlin and I were unable to attend the ACA session discussing the Policy on Acquired Art, but are very interested in the Commission and Department's proposed revisions. We would like to offer our thoughts below.

On page 1 in the first inserted paragraph it states: "The goal is to...enhance Alexandria's reputation as a national leader in the arts." We have great reservations about that being accomplished if this Policy is actually revised to REMOVE ARTISTS' RIGHTS. We refer you to page 6, section 2.1. We are **strongly opposed** to the addition of the language: "The City may require the Artist to waive all rights that she/he may have under the Visual Arts Rights Act..." or *any other language* which restricts or removes artists' rights. In reference to the conclusion of that sentence: "...to protect the City's interest.", we would beg to differ that it would be in the City's interest to treat artists in this manner.

On page 1, in section 1.1 it states: "...funding for educational and other art related programs..." How is this separate from the ACA's Project Grants? And in 1.1.a. it is not clear what the 7 year restriction covers. Since this Policy is now attempting to cover programs, in light of my previous question, would the 7 year restriction extend to Project Grant programs?

On page 2, section 1.2.b., does "...competitive selection." apply to only "Permanent"? How does it apply to programs? And how would it apply to the offer of a donation of a specific piece of art (like Brio, or the Sacandaga Totem)?

On page 2, section 1.2.f., the language is so confusing that I can't even put together a specific question. I believe that must be reviewed.

On page 6, section 2.1., we refer you to the paragraph above starting "On page 1...".

On page 8, section 2.8.2., we would recommend adding: g. whether there are any restrictions prohibiting deaccession.

We are wondering for what reason the artists' entitlement to royalties (covered beginning in the removed section 2.7.3.9) has been completely removed?

We would appreciate a response to our thoughts and comments in the near future.

Thank you,
Kathryn Brown and Marlin Lord

Kathryn A. Brown
Photographer
703-549-5227

Kathryn A. Brown
Assistant Treasurer
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