Beverly Hills City Council Liaison / Arts and Culture Commission Committee will conduct a Special Meeting, at the following time and place, and will address the agenda listed below:

CITY OF BEVERLY HILLS
455 N. Rexford Drive
Beverly Hills, CA 90210

TELEPHONIC VIDEO CONFERENCE MEETING

Beverly Hills Liaison Meeting
https://www.gotomeet.me/BHLiaison
No password needed

You can also dial in by phone:
United States (Toll Free): 1-866-899-4679 or United States: +1 646-749-3117
Access Code: 660-810-077

Thursday, January 21, 2021
2:00 PM

Pursuant to Executive Order N-25-20, members of the Beverly Hills City Council and staff may participate in this meeting via a teleconference. In the interest of maintaining appropriate social distancing, members of the public can view this meeting through live webcast at www.beverlyhills.org/live and on BH Channel 10 or Channel 35 on Spectrum Cable, and can participate in the teleconference/video conference by using the link above. Written comments may be emailed to mayorandcitycouncil@beverlyhills.org.

AGENDA

1) Public Comment
   a. Members of the public will be given the opportunity to directly address the Committee on any item listed on the agenda.

2) Review of the art requirements at 9242 Beverly Blvd., Beverly Hills, CA 90210

3) Adjournment

Huma Ahmed
City Clerk

Posted: January 20, 2021

A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW AT WWW.BEVERLYHILLS.ORG

Pursuant to the Americans with Disabilities Act, the City of Beverly Hills will make reasonable efforts to accommodate persons with disabilities. If you require special assistance, please call (310) 285-1014 (voice) or (310) 285-6881 (TTY). Providing at least twenty-four (24) hours advance notice will help to ensure availability of services.
STAFF REPORT

Meeting Date: January 21, 2021
To: City Council Liaisons
From: Patty Acuna, Recreation Services Manager
Subject: • Review of Art Requirements at 9242 Beverly Blvd.

Attachments:
1. FAC Minutes 5/15/91 Approval of Fine Art Obligation Mural & Sculpture 9242 Beverly Blvd.
2. 9242 Beverly Blvd. Mural Arch Image
3. 9242 Beverly Blvd. Sculpture Image
4. ACC Memo 9/8/20 Request to Relocate Public Art at 9242 Beverly Blvd.
5. ACC Minutes 9/8/20 Approval of Relocation of Sculpture at 9242 Beverly Blvd.
6. BH Fine Art Ordinance

Representatives of the 9249 Beverly Blvd. property would like to review the requirements to satisfy the City’s Fine Art Obligation associated with this property.
PRESENT:

Chair: Ellen Byrens; Vice Chair: Nancy Nebenzahl; Members: Arnold Ashkenazy, Jean Sieroty, Janet Salter, Joan Agajanian Quinn.

NOT PRESENT:

Harriet Hochman.

CALL TO ORDER:

The meeting was called to order at the Library Conference Room and adjourned to the Neiman Marcus Club Room at 3:00 p.m. The meeting was called to order at the Neiman Marcus Club Room at 4:00 p.m.

MINUTES:

The minutes were approved as mailed.

OLD BUSINESS:

A. Report of Nominating Committee: Chair Byrens called on Member Salter to report on the status of the Vice Chair nomination. Member Salter reported that Jean Sieroty had accepted the nomination as Vice Chair. The nomination was unanimously approved.

B. Buildings in Non-Compliance: Chair Byrens requested a report on the status of two projects currently in non-compliance with the Ordinance. Chair Byrens reviewed a letter received from Mae Butler, representing the Tracinda Corporation, regarding the 9333 Wilshire Boulevard MGM/UA building and requesting approval to present an ornamentation proposal at the June 19 meeting. The request was approved. Walter Zifkin, Executive Vice President of the William Morris Agency, and Steven H. Kram, Vice President of the William Morris Agency, requested Committee permission to proceed with acquisition of a sculpture by Chaim Gross titled "Dance Rhythm, A Large Group of a Mother and Child," which will be offered at the Sotheby's auction of American paintings, drawings and sculpture on May 23. The acquisition price would be more than the $63,000 Ordinance requirement, and the sculpture would be located in the public lobby of the 150 S. Rodeo Drive building. The motion was made by Vice Chair Nebenzahl that the Committee conditionally approve proposal as submitted by the William Morris Agency pending purchase at auction, and to provide report at the June 19 meeting. The motion passed unanimously.
C. Fine Art Ornamentation Proposal Presentations:

1. Robert Zarnegin, owner and developer of the Peninsula Hotel, presented a maquette by Norwegian artist Kirsten Kokkin titled "Flight to Infinity." The sculpture would be placed in the fountain of the central garden of the hotel. Member Quinn requested information on the appraisal of the artist's work and expressed concern as to its value. The Ordinance requirement for this project is $63,000. The work will consist of three parts: cast bronze female figure as depicted in maquette ($46,000) measuring 5 ft. 3 in. (height) by 3 ft. 3 in. (width); bronze fluted pedestal ($8,000) measuring 3 ft. 2 in. (height) by 8 to 10 in. (diameter); eight cast bronze birds ($16,000). Mr. Zarnegin noted that the height of the female figure was increased by 1 foot, making the figure life-size. Ellen Byrens will chair the opening event for the hotel, tentatively scheduled for August 8, under the auspices of the Fine Art Committee. A motion was made by Member Ashkenazy to approve the Peninsula Hotel proposal as presented. The motion was seconded by Jean Sieroty and unanimously passed. Vote: Byrens: yes; Nebenzahl: yes; Ashkenazy: yes; Quinn: yes; Salter: yes; Sieroty: yes.

2. Richard Leonard, primary tenant of the 9430 Olympic Boulevard building, introduced Lynne Cohen, art consultant with Art Dimensions Inc., who presented an oil painting by artist Alain-Paul Sevilla entitled "The Year 2000" ($4,000) and a two-panel serigraph by artist Carlos Almarza entitled "Mystery in the Park" ($9,500). The Committee expressed concerns with the proposal regarding the appraised value of the works and their originality. The proposal was not approved, and the request was made for a revised proposal to be submitted at the June 19 meeting.

3. Ross Gilbert, owner of Mercedes Place, 9242 Beverly Boulevard, presented a revised proposal to include a 10-foot bronze by artist Jack Zajac ($38,000) entitled "Falling Water" and a lobby mural by artist Terry Schoonhoven ($30,000). The fine art requirement for this project is $63,000. Chair Byrens complimented Mr. Gilbert on his excellent revision of selected of artists and proposed fine art for the building. The motion was made by Member Quinn to approve the fine art proposal of works by Jack Zajac and Terry Schoonhoven. The motion unanimously passed. Vote: Byrens: yes; Nebenzahl: yes; Ashkenazy: yes; Quinn: yes; Salter: yes; Sieroty: yes.

D. Civic Center Art: Chair Byrens reported that the City Council approved the Committee recommendation to purchase a work by Chuck Arnoldi ($68,000) for the Civic Center. The work will be placed, at Charles Moore's request, on the south side of the Library facility at Rexford Drive and Burton Way. Mr. Arnoldi has been notified and will make arrangements to view the site to prepare for the installation. Chair Byrens noted that there are
remaining funds ($82,000) still available in the Fine Art Fund for the purchase of additional art works for the Civic Center.

E. Promised Gift for Library Interior: Chair Byrens asked if Committee members had viewed the "Torso of the Walking Man" by Auguste Rodin, which is the promised gift from Cantor Fitzgerald Inc. for the Library interior. The motion was made to accept the promised gift for the Library interior. Vote: Byrens: yes; Nebenzahl: yes; Ashkenazy: yes; Quinn: yes; Salter: yes; Sieroty: yes. The motion was unanimously passed.

NEW BUSINESS:

A. Promised Gift from Mrs. Elaine Attias to Library: Chair Byrens asked the Committee to review a letter received from Mrs. Elaine Attias regarding her request to donate two paintings to the Library interior. The works are: "Clamming at Stanford" by artist Reginald Pollack (American), oil on canvas, 1964, measuring 46 1/2 x 68 1/4, valued at $7,500; "Venice, 1958" by Shirl Goedike (American), oil on canvas, 1958, measuring 60 x 42. Chair Byrens requested staff to have the works transported to the Library and made available for Committee review at the June 19 meeting.

ADJOURN:

Chair Byrens thanked Mayor Reynolds and City Manager Mark Scott for attending the meeting and acknowledged Neiman Marcus for its generosity in providing arrangements for the meeting. There being no further business, the meeting was adjourned at 5:00 p.m.

NEXT MEETING:

The next meeting will be held June 19 at 4:00 p.m. in the Beverly Hills Public Library Conference Room.

Respectfully submitted,

Ellen Byrens, Chair
A representative from nbbj for the interior building improvement project located at 9242 Beverly Boulevard, will do a presentation and discuss a request to relocate the previously approved public art at the property. The artwork, a bronze sculpture, called *Falling Water*, by Jack Zajac, needs to be relocated due to improvements being made to the building’s interior. The proposed location is to a visually prominent exterior corner at Beverly Boulevard and Maple Drive. The artwork will be installed in an elevated landscaped planter area.

Information on the requested relocation is attached. The attachment includes a site map, floor plan, and a variety of photos displaying the proposed new location in relation to the building.
SCOPE OF WORK -

Review of the previously approved public art location in building 9242 Beverly Blvd. Due to interior improvements throughout the building including the Lobby in which the artwork, a sculpture is located the piece needs to be relocated. The proposed relocation of the sculpture is to a visually prominent exterior corner at Beverly Blvd. and Maple Dr. The sculpture will be installed in an elevated landscaped planter area, see the attached documentation for context.
PROJECT SITE: 9242 BEVERLY BLVD.
LOOKING SOUTH ALONG BEVERLY BLVD.
VIEW OF RELOCATED SCULPTURE AT NORTHEAST CORNER
ARTS AND CULTURE COMMISSION

9242 BEVERLY BLVD
9242 BEVERLY BLVD.   BEVERLY HILLS, CA 90210

08/24/20
SCALE.

VIEW OF RELOCATED SCULPTURE AT NORTHEAST CORNER

NEW SCULPTURE LOCATION

NEW MONUMENT SIGN

923 WEST 4TH STREET, SUITE 300
LOS ANGELES, CALIFORNIA 90014
PHONE 213 243 3333
FAX 213 243 3334

A2-02B
RELOCATED SCULPTURE
NEW MONUMENT SIGN

PROPOSED ELEVATION, ALONG BEVERLY BLVD

ARTS AND CULTURE COMMISSION
9242 BEVERLY BLVD
9242 BEVERLY BLVD. BEVERLY HILLS, CA 90210

ARTS AND CULTURE COMMISSION
08/24/20
SCALE: 1" = 30'-0" COLORED BUILDING ELEVATION, ALONG BEVERLY BLVD & ALONG COMMERCIAL CENTER STREET

TISHMAN SPEYER
nbbj
525 WEST 5TH STREET, SUITE 300
LOS ANGELES, CALIFORNIA 90014
PHONE 213 243 3333
FAX 213 243 3334

A3-02
MEETING CALLED TO ORDER
Date/Time: September 8, 2020 / 10:01 am

CIVILITY STATEMENT
The Civility Statement was read to initiate the meeting.

ROLL CALL
Commissioners Present: Commissioners Filipovic, Vahn, and Rubins, Vice Chair Frank, Chair Smooke
Commissioners Absent: None
Staff Present: Jenny Rogers, Pam Shinault, Kristin Buhagiar, Jenny Rogers, Patty Acuña, Adrine Ovasapyan, Lolly Enriquez, Aida Thau

COMMUNICATIONS FROM THE AUDIENCE
None

APPROVAL OF AGENDA
By order of Chair Smooke, the agenda was approved as presented.

CONSENT CALENDAR

Motion: MOVED by Commissioner Vahn, SECONDED by Vice Chair Frank to approve the minutes (5-0).

AYES: Commissioners Filipovic, Vahn, and Rubins, Vice Chair Frank, Chair Smooke
NOES: None
ABSENT: None
ABSTAIN: None
CARRIED

REPORTS FROM PRIORITY AGENCIES

Recordings of the Arts and Culture Commission's meetings are available online at www.beverlyhills.org
Arts and Culture Commission Regular Meeting Minutes
September 8, 2020

None

PRESENTATIONS

None

NEW BUSINESS

2. 2020 Conflict of Interest Code – Arts and Culture Commission

Chief Assistant City Attorney Lolly Enriquez provided a general overview of the 2020 Conflict of Interest Code noting one change: where the bottom of page 7 says $460, but will change to $500. The Conflict of Interest Code is required by the Political Reform Act and the FPPC Regulations.

Motion: MOVED by Commissioner Rubins, SECONDED by Chair Smooke to approve the changes for the 2020 Conflict of Interest Code (5-0).

AYES: Commissioners Filipovic, Vahn, and Rubins, Vice Chair Frank, Chair Smooke
NOES: None
ABSENT: None
ABSTAIN: None
CARRIED

3. Request to Relocate Public Art at 9242 Beverly Blvd.

Developer NBBJ's representatives Yuri Suzuki, Jonathan Nichols, Rick Poulos, and Robert Norwood, presented renderings to demonstrate the relocation request of artwork Falling Water by Jack Zajac from the inside of the building located at 9242 Beverly Blvd. to the outside of the building. The bronze sculpture will be more visible from both Maple Dr. and Beverly Blvd. as it will sit in an elevated planter. The intent of the relocation is for the artwork to be more visually prominent and enjoyed by the public. The Commission suggested adding lighting to the sculpture for increased visibility in the evening and the representatives agree.

Motion: MOVED by Commissioner Vahn, SECONDED by Vice Chair Frank to approve relocating the sculpture from the interior of the building and placing at corner of Beverly Blvd. and Maple Dr. on the condition there are up lights so that the sculpture will show during the day and in the evening (4-0).

AYES: Commissioners Vahn, and Rubins, Vice Chair Frank, Chair Smooke
NOES: None
ABSENT: None
ABSTAIN: Commissioner Filipovic
CARRIED
CONTINUED BUSINESS

4. Financial Update
Recreation Supervisor Adriane Ovasapyan reported on the Fine Art fund and informed on pending permits and fees.

5. Artwalk Map Brochure
Commissioner Rubins shared that the project is on hold due to the Nechita and Zajac sculptures. Since the artworks are potentially relocating, the printed map brochure will need to be amended to reflect artwork locations. Staff recommended printing smaller versions of the paper publication and specifying which edition it is on the map brochure with the addition of text instructing the reader to reference the online version which will provide the most up-to-date information. Adding to staff recommendations, Commissioner Rubins suggests adding a reference to the QR code for the most current information.

PROJECT UPDATES
- Nechita Artwork Update
Staff discussed the agreement concerns with the art donors specifically the terms regarding obligation to display. The City Attorney’s Office advised that the City has the latitude to make a business decision other than what City Attorneys are best recommending. Staff strives for a compromise between of the City and the donors to protect both parties’ interests.
- Ai Weiwei Artwork Update
The artwork passed customs at LAX and is currently at the fabricator. Staff was able to view the piece which is in great condition. The fabricator will be creating the plinth base for approximately 10 weeks. During that time, staff will be working on engineering studies pull permits, and prepare for installation. A project timeline will be developed soon with an installation date that will be shared with the Commission.
- Greystone Theatre Programming and Concerts on Canon Programming
Performances taped at Greystone Theatre started airing on BHTV on August 3rd and September 8th will mark the last performance. Concerts on Canon take place every Thursday on BHTV with the last performance airing on September 10th.
- Fall Virtual Art Show
The Fall Art Show will take place on October 17th and 18th and will be virtual again. If County permits, there may be onsite programming such as painting or jewelry-making workshops.

COMMUNICATIONS FROM THE COMMISSION
- Chair’s report
  a) Mayor’s Cabinet Meeting Highlights
  b) Ad Hoc Committees
    - Fine Art and Public Art (Smooke, Vahn)
      Chair Smooke and Director Rogers informed that art consultants Karen Constine and Jessica Cusick are working on a revised public art draft and will bring the document to the Commission for further discussion and feedback. Additionally, the Ad Hoc Committee is reviewing specific sculptures that need landscaping revisiting and bringing recommendations
to the Commission for approval.
- Cultural and Events (Frank, Vahn)
  Vice Chair Frank and Director Rogers informed that the TZ Projects and
  The Wallis partnership and the Beyond 2020 partnership with United Talent
  Agency (UTA) will be up for discussion at the upcoming City Council
  meeting on September 15th. These projects are part of the Inter-
  Commission Initiative – Embrace and Celebrate Culture.
- Education and Outreach (Rubins, Filipovic)
c) Other items brief announcements, request for information, and brief reports
   on activities

COMMUNICATIONS FROM STAFF
• Director’s Report
  a) Director Rogers shared information on an upcoming county and city art summit.
     Art consultants Karen Constine and Jessica Cusick continue to share opportunities
     that staff will share with the Commission, the Arts and Culture website, and social
     media accounts.
• Information only items
  a) Arts and Culture Commission Upcoming Meetings

ADJOURNMENT
Date / Time: September 8, 2020 / 12:30 pm

PASSED, Approved and Adopted on this 13th day of October 2020.

Michael Smooke, Chairperson
Article 8. Beverly Hills Fine Art Ordinance

3-1-801: Definitions
3-1-802: Fine Art Obligation
3-1-803: Separate Fund For Purchase Of City Owned Art
3-1-804: Application Requirements For Proposed Fine Art
3-1-805: Fine Art Criteria
3-1-806: Ineligible Costs
3-1-807: Placement And Signage Of Fine Art
3-1-808: Schedule Of Installation Of Fine Art
3-1-809: Ownership, Maintenance, And Insurance By The Property Owner
3-1-810: Reconstruction Of Buildings That Previously Met The Fine Art Obligation
3-1-811: Denial By The Fine Art Commission
3-1-812: Appeal To City Council Following Denial By The Fine Art Commission
3-1-813: Gifts Of Fine Art
3-1-814: Deaccessioning Of City Owned Fine Art

3-1-801: DEFINITIONS:

The following definitions are applicable to the provisions of this article:

ACT OF GOD: A direct, sudden, and irresistible action of natural forces such as could not reasonably have been foreseen or prevented, as a flood, hurricane, earthquake, or other natural catastrophe.

COMMERCIAL/INDUSTRIAL BUILDING: Any building or structure, all or part of which contains a commercial or industrial use permitted by this code. "Commercial structure" shall not include any building or structure constructed or reconstructed for the elderly or disabled pursuant to title 10, chapter 3, article 12.5 of this code.

COMMISSION: The fine art commission.

CONSTRUCTION COST: The total value of all building permits issued by the city as they relate to the construction, reconstruction or addition work on a commercial/industrial building, or the office or retail portion of a mixed use building in the city.

DECORATIVE ART: Arts and crafts that are employed in the making of ornamental and functional works in a wide range of materials. Decorative arts are concerned with design, decoration, ornamentation and/or functionality of the object rather than the purely aesthetic.

FINE ART: Art produced or intended primarily for beauty rather than utility. Fine art includes, but is not limited to: sculpture, photography, drawing, multimedia art and painting. Fine art shall not include the following: a) decorative, ornamental or functional elements designed by the architect or other design consultant retained for the design and construction of the subject building; b) art objects that are mass produced with a standard design such as fountains and statuary objects; c) an artistic or architectural element that is a structural part of a building; or d) decorative art.

FINE ART OBLIGATION: The obligation to provide art or make an in lieu payment as specified in section 3-1-802 of this chapter.

MIXED USE BUILDING: A site with two (2) or more different land uses, such as, but not limited to, a
combination of residential, office or retail uses in a single or physically integrated group of structures or the development of a combination of different land uses in a single zone.

PROPERTY OWNER: The titleholder of the subject property.

RECONSTRUCTION: All alterations or repairs made to a commercial/industrial building or the office and/or retail portion of a mixed use building where:

A. Any such alterations or repairs result in changes to the exterior of the building, with the exception of signs and/or awnings;

B. The changes to the exterior of the building are not limited to repair and/or ordinary maintenance; and

C. The building permit valuation of all alterations or repairs to the building equals or exceeds five hundred thousand dollars ($500,000.00).

Notwithstanding the foregoing, reconstruction necessitated by damage due to fire, flood, wind, earthquake, or other disaster shall be exempt from this article. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-802: FINE ART OBLIGATION:

A. Any construction, reconstruction or additions, to a commercial/industrial building or mixed use building in the city of Beverly Hills shall be assessed with the obligation to provide fine art as follows:

1. For projects with total construction costs between five hundred thousand dollars ($500,000.00) and one million dollars ($1,000,000.00), the fine art obligation shall be satisfied by either of the following: a) installation of fine art that has a value equal to, or exceeding, one percent (1%) of the total construction costs; or b) payment of an in lieu fee to the fine art fund equal to ninety percent (90%) of the value required by the immediately preceding item a of this subsection.

2. For projects with total construction costs equal to or greater than one million dollars one cent ($1,000,000.01), the fine art obligation shall be satisfied by either of the following: a) installation of fine art that has a value equal to, or exceeding, one percent (1%) of the first one million dollars ($1,000,000.00) plus one and one-half percent (1.5%) of the amount in excess of one million dollars ($1,000,000.00); or b) payment of an in lieu fee to the fine art fund equal to ninety percent (90%) of the value required by the immediately preceding item a of this subsection.

B. If the in lieu payment option has been chosen pursuant to subsection A of this section, then such in lieu payment shall be made prior to the issuance of the related building permit. Once the funds for the in lieu payment have been made available to the fine art fund, then the property owner's obligations under this article shall have been fulfilled. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-803: SEPARATE FUND FOR PURCHASE OF CITY OWNED ART:

All payments made to the fine art fund of the city shall be used solely for the following in connection with fine art: a) planning, b) acquisition (including appraisal fees), c) installation, d) improvement, e) maintenance (including professional services required to maintain the integrity of the public art collection), and f) promotional activities associated with city owned fine art for display in the city. Any fine art
3-1-804: APPLICATION REQUIREMENTS FOR PROPOSED FINE ART:

After final approval by the architectural commission, if required, an application shall be filed with the city for approval of the proposed fine art by the fine art commission. The application shall be on the form designated by the city, containing the following information:

A. Preliminary sketches, photographs, models, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed fine art;

B. Curriculum vitae of the artist;

C. An appraisal by an independent, qualified fine art appraiser or other evidence satisfactory to the commission of the value of the proposed fine art, including, but not limited to, bona fide invoices, auction records, and fine art gallery records;

D. Documentation showing at least one piece of the same or comparable medium, size, and condition that has sold in the last five (5) years, at or above the required fine art obligation value shall be included;

E. Sketches, photographs, or other documentation representing to scale the relationship of the proposed fine art as installed to the proposed commercial or mixed use structure. Final approval will be contingent upon accurate depiction of proposed artwork and accurate depiction of installation of artwork; and

F. Such other information as may be requested by the director of community development.

Upon receiving a complete application, the fine art commission shall consider the application at its next regularly scheduled meeting; provided however, that the complete application must be received at least two (2) weeks prior to the meeting at which it will be considered. Ten (10) days' prior written notice shall be provided to the applicant of the time and place of the meeting at which the application will be considered. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-805: FINE ART CRITERIA:

The fine art commission shall approve the application if the proposed fine art satisfies all of the following criteria:

A. The fine art has the minimum value required by section 3-1-802 of this chapter as determined by the appraisal submitted along with the application pursuant to section 3-1-804 of this chapter. Such appraisal shall not use the current market value of materials used to produce a comparable art piece as a basis for determining the value of the proposed fine art. The value of the fine art shall not include the items listed in section 3-1-806 of this chapter.
B. The fine art has been, or will be, created by an established artist. "Established artist" shall mean a professional artist who derives his or her income primarily from his or her work as an artist and is accepted and recognized in the field of fine art, internationally or nationally. Documentation to support the artist's stature should include, but is not limited to: 1) inclusion in art journals and art books; 2) fine art gallery representation; 3) museum exhibition or collection; 4) auction house records; and, 5) letters of support from fine art curators. The members of the architectural, engineering, design or landscaping firms retained for the design and construction of the commercial or mixed use building under review shall not be considered qualified established artists for the purposes of this article.

C. The fine art has intrinsic quality and enduring value.

D. The fine art is compatible with and enhances the aesthetic quality of the proposed installation site. The relationship of the fine art to the site in terms of physical size, shape and color shall be considered, as well as the social and cultural interaction of the fine art with the space it occupies and the surrounding area. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-806: INELIGIBLE COSTS: 🌐 🌚

Expenses for the following do not qualify as fulfilling the fine art obligation:

A. Art consultants;

B. Appraisers;

C. Insurance;

D. Maintenance costs;

E. Shipping;

F. A structure, upon which artwork is displayed (e.g., a pedestal);

G. Professional fees for the artist(s);

H. Labor of assistants, materials, and contracted services required for the installation of the work of art;

I. Any required permit or certificate fees;

J. Business and legal costs directly related to the project;

K. Studio and operating costs;
L. Communication and other indirect costs (insurance, utilities);

M. Travel expenses of the artist for site visitation and research;

N. Transportation of the work of art to the site;

O. Preparation of the site to receive the artwork;

P. Installation of the completed work of art;

Q. Documentation (e.g., color slides and black and white photographs of the artwork); and

R. Directional elements such as super graphics, plaques, or color coding except where these elements are integral parts of the original work of art. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-807: PLACEMENT AND SIGNAGE OF FINE ART:

A. The fine art required by this article shall be located in a public place. A "public place" means any area on public or private property that is easily accessible and clearly visible to the general public. If located on private property, the area must be open to the general public during normal business hours and clearly visible from adjacent public property such as a street or other public thoroughfare or sidewalk.

B. The applicant may request to have the work of fine art placed on city owned property. Upon such request, the fine art commission may recommend a site on city owned property for approval by the city council. Any work of art installed on city owned property pursuant to this section, would be gifted to the city with an endowment provided by the current property owner for transport, installation, insurance, and maintenance, in an amount acceptable to the city council.

C. Each work of art shall be identified by a plaque stating the artist's name, title, date the artwork was created, and the year of installation. The plaque will be placed and maintained in a location near the artwork and easily viewable by the public. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-808: SCHEDULE OF INSTALLATION OF FINE ART:

A. Prior to the issuance of a building permit that triggers a fine art obligation, the applicant shall deposit with the city cash, a letter of credit, or other security satisfactory to the director of community development in an amount equal to the value of the fine art as required by section 3-1-802 of this chapter. The security shall guarantee installation of fine art, or an in lieu fee, as required by this article.

B. All fine art required by this article shall be installed, as approved by the fine art commission, prior to the final inspection of the construction or reconstruction that has triggered the requirements of this article. Within seven (7) days of installation of the approved fine art, the applicant shall notify the fine art commission and city staff to verify compliance.
C. If the fine art required by this article is not installed by the final inspection of the construction or reconstruction that has triggered the requirements of this article, then the applicant shall forfeit the security posted with the city, and such monies shall be deposited into the fine art fund. In the case of unforeseeable, and verifiably documented, extenuating circumstances, the deadline to install the fine art may be extended up to a maximum of twelve (12) months, with the written approval of the fine art commission. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-809: OWNERSHIP, MAINTENANCE, AND INSURANCE BY THE PROPERTY OWNER:

The property owner:

A. Shall, except if the fine art is placed on city owned property, own such fine art, and if the building is sold, shall transfer ownership of the fine art as an integral part of the sale of the building.

B. Shall execute a recordable covenant running with the land, in a form acceptable to the city attorney, regarding the fine art.

C. Shall maintain such fine art at the on site location as approved by the fine art commission, unless a different on site location is approved by the fine art commission at the request of the property owner.

D. Shall maintain artwork per the guidelines set forth by the artist who created it, or the artist's representative, if applicable.

E. May request the ability to remove the fine art at a later date by offering to donate the piece to the city or by paying the original or present day value of the art, whichever is higher. Such request must be reviewed by the fine art commission and approved by the city council. If the piece will be gifted to the city, the owner must provide the city with an endowment for the piece to pay for transport, storage, reinstallation, insurance and maintenance in an amount acceptable to the city council. If there is construction, reconstruction or an addition to the property in conjunction with the request to remove the original fine art, then there will be a new fine art obligation assessed in accordance with the provisions of this article.

F. For all fine art installed after January 1, 2015, shall provide an appraised valuation or other evidence of value satisfactory to the fine art commission, of the artwork every five (5) years, to guarantee the work is insured to its proper market value. Any appraisal shall be made by an independent, qualified fine art appraiser and shall be paid for by the property owner. Other evidence of value may include bona fide invoices, auction records, and fine art gallery records.

G. Shall maintain in full force and effect at all times, insurance coverage in the amount of the most recent appraised value, insuring such fine art against any loss or damage, including vandalism, in accordance with the provisions of chapter 4 of this title. Annual proof of insurance coverage must be provided to the city.
H. Shall, in the event that the artwork is destroyed, stolen, damaged, or lost, resulting in an insurance claim against such loss, use any funds that are paid out to the owner by the insurance company toward the purchase of a replacement work of art, subject to the most current criteria of the fine art ordinance and equal to the insured valuation of the lost work. Alternatively, the property owner has the option to deposit into the fine art fund an amount equal to the insured valuation of the lost work. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-810: RECONSTRUCTION OF BUILDINGS THAT PREVIOUSLY MET THE FINE ART OBLIGATION:

Each reconstruction with a total construction cost of at least five hundred thousand dollars ($500,000.00) shall trigger the fine art obligation.

A. If a building that had previously satisfied the fine art obligation is damaged by an act of God resulting in a reconstruction and the original fine art is intact or an in lieu fee was previously paid, there will be no additional fine art obligation required. However, if the original fine art is destroyed, a replacement work of art that meets the requirements of the fine art ordinance currently in effect will be required in an amount equal to the insured value of the lost or destroyed art piece. Alternatively, the property owner has the option to deposit into the fine art fund an amount equal to the insured valuation.

B. If a building that had previously satisfied the fine art obligation is voluntarily reconstructed and the original fine art is intact or an in lieu fee was previously paid, a new fine art obligation will be required based on the difference between the construction cost of the new project less the construction cost of the project that triggered the original fine art obligation. However, if the original fine art is missing or destroyed, a new fine art obligation that meets the requirements of the fine art ordinance currently in effect will be required in an amount: 1) based upon the construction costs of the new project as specified in section 3-1-802 of this chapter; or 2) equal to the most recent appraised value of the missing or destroyed original fine art, whichever is higher. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-811: DENIAL BY THE FINE ART COMMISSION:

A. In the event a work of art proposed by the property owner is denied by the fine art commission, the property owner must present other works of fine art to the commission. The full application process must be followed for each work of fine art presented to the commission, as set forth in 3-1-804 of this chapter.

B. The applicant may request that the fine art commission reconsider its decision if changes are made either to the proposed fine art or the subject building such that there are new facts upon which the commission may reconsider its earlier decision. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-812: APPEAL TO CITY COUNCIL FOLLOWING DENIAL BY THE FINE ART COMMISSION:

Any final decision of the fine art commission may be appealed to city council under title 1, chapter 4, article 1 of this code. (Ord. 15-O-2672, eff. 2-6-2015)
3-1-813: GIFTS OF FINE ART:

A. All proposed gifts to the city of fine art with a value in excess of ten thousand dollars ($10,000.00) that are proposed to be installed in a "public place" (as such term is defined in subsection 3-1-807A of this chapter) shall be reviewed by the fine art commission in accordance with the terms of this article, prior to being presented to city council for consideration of acceptance. Nothing herein shall prevent the city council from accepting gifts of fine art with a value in excess of ten thousand dollars ($10,000.00) that will not be displayed in a public place, without review by the fine art commission.

B. If the donor requests a receipt from the city containing a specified value of the donated art, such donor will need to provide an appraisal to the city which supports the stated value. (Ord. 15-O-2672, eff. 2-6-2015)

3-1-814: DEACCESSIONING OF CITY OWNED FINE ART:

A. Introduction: Deaccessioning is a legitimate part of the formation and care of a collection. However, deaccessioning should be a deliberate and seldom used procedure. It is the policy of the city not to dispose of artwork simply because it is not currently in fashion, and not to dispose of work whose worth might not yet be recognized.

B. Definition: "Deaccessioning" shall mean any actions or set of procedures that result in the cessation by the city of its ownership and possession of works of art, through sale, exchange, gift or any other means not in conflict with state or federal law.

C. Conditions:

1. No artwork shall be deaccessioned within five (5) years of acquisition by the city or installation unless:
   a. The piece poses a threat to public health or safety;
   b. Authenticity was misrepresented at the time of acquisition or installation;
   c. There is a valid challenge to title; or
   d. It possesses faults of design or workmanship that result in excessive or unreasonable maintenance, and/or damage to an extent where repair is unreasonable or impractical.

2. Once the five (5) year period has lapsed, the fine art commission may recommend to the city council the deaccessioning of any work of art if any of the following conditions apply:
   a. The cost to repair the work is more than fifty percent (50%) of current appraised value, or the work is so deteriorated that restoration would prove unfeasible or misleading;
   b. Destruction of, or changes to, the site where the art is located threaten the artwork's survival or result in a significant diminishing of its artistic integrity or accessibility; or
   c. The fine art commission determines that there is an exceptional and unforeseen reason for removing the artwork from its current site, and no other suitable site in the city can be found.
D. Procedures: If the conditions for deaccessioning are met, the following information, as appropriate, shall be considered by the fine art commission at a formal meeting:

1. Reasons for the proposed deaccessioning;
2. Opinion of the city attorney's office, if necessary;
3. Process of acquisition method and cost and/or value at the time of acquisition;
4. Expert appraisal of the current market value of the work;
5. Costs associated with deaccessioning or removal;
6. A condition report from a professional conservator; and
7. Professional fees associated with the subsequent sale, auction, donation or trade of the artwork.

At the discretion of the fine art commission, where applicable and achievable, the original donor of the work may be given right of first refusal to purchase the work within sixty (60) days of notification. No works may be sold, traded or transferred to a member of the fine art commission, city of Beverly Hills officials or staff or their agents.

Nothing in this section shall prohibit the city council from deaccessioning any piece of city owned art, at any time, if the city council determines that deaccessioning is in the public interest and that following the procedures set forth in this section is not in the public interest. (Ord. 15-O-2672, eff. 2-6-2015)