

ORDINANCE No. 115337

COUNCIL BILL No. 108227

Law Department

The City of Seattle

AN ORDINANCE providing for the disposition of artworks surplus to the City's collection through the Seattle Arts Commission, providing for the application of the proceeds of a sale, adding new sections 3.56.060 and 3.56.070 to the Seattle Municipal Code and amending SMC 3.14.828.

Honorable President:

Your Committee on PARKS AND PUBLIC

to which was referred the within report that we have considered the

passed 4-0

Council vote 8-0

COMPTROLLER FILE No. _____

Introduced: SEP 17 1990	By: CHOW
Referred: SEP 17 1990	To: Parks and Public Grounds
Referred:	To:
Referred:	To:
Reported: SEP 24 1990	Second Reading: SEP 24 1990
Third Reading: SEP 24 1990	Signed: SEP 24 1990
Presented to Mayor: SEP 24 1990	Approved: SEP 24 1990
Returned to City Clerk: OCT 1 1990	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

OK

Department

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE

President:

Committee on PARKS AND PUBLIC GROUNDS COMMITTEE

9/20/90

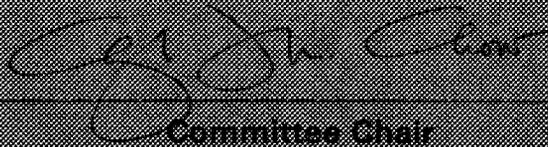
was referred the within Council Bill No. 100227

that we have considered the same and respectfully recommend that the same:

passed 7-0

9/20/90

and vote 8-0



Committee Chair

ORDINANCE 115337

1
2 AN ORDINANCE providing for the disposition of artworks
3 surplus to the City's collection through the Seattle
4 Arts Commission, providing for the application of the
5 proceeds of a sale, adding new sections 3.56.060 and
6 3.56.070 to the Seattle Municipal Code and amending SMC
7 3.14.828.

8 WHEREAS, the City Charter contemplates that surplus City
9 supplies, materials and equipment will be disposed of
10 by the Purchasing Agent "in the manner provided by
11 ordinance" and that such manner will be through
12 competitive bidding unless otherwise specified by the
13 City's legislative authority; and

14 WHEREAS, works of art have a character that is distinguish-
15 able from publicly owned supplies, material and
16 equipment; and

17 WHEREAS, various means of marketing artwork exist besides
18 the competitive bidding process, which other means may
19 ensure the continued display of such artwork in the
20 Seattle area even though such art may no longer be
21 owned by The City of Seattle or may ensure the receipt
22 by the City of a substitute artwork rather than cash,
23 either of which means may better serve the interests of
24 the City and its residents than the disposition of
25 deaccessioned artwork through competitive bidding; and

26 WHEREAS, it is appropriate to make an exception to the
27 traditional processes of disposing of surplus City
28 supplies, materials and equipment, for artwork that the
Seattle Arts Commission has determined should no longer
remain in the City's collection; Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There shall be added to the Seattle
Municipal Code and to Ordinance 102151, as amended, a new
section, designated Section 3.56.060, as follows:

3.56.060 Deaccessioning and Disposition of Surplus
Artworks.

A. When the Seattle Arts Commission determines that an
artwork is surplus to the City's collection of artworks, the
Commission may deaccession the same and arrange for its
disposition through an exchange of the artwork for one or
more other artwork(s) of comparable aggregate value for the
City's collection, with the City being responsible for the
payment or receipt of any monetary difference between the
value of the City's artwork and the aggregate value of such

1 exchanged artwork(s); through a sale by an art gallery or
2 dealer; through a public auction or process inviting bids or
3 proposals from the public and the acceptance of the best
4 response; through the Purchasing Agent in the same manner as
5 other surplus property; through an indefinite loan to
6 another governmental entity on condition that the receiving
7 entity will maintain the artwork and provide an accompanying
8 notice of the City's retained ownership; or through redona-
9 tion, sale or another arrangement agreed upon with the donor
10 or artist at the time of the City's acquisition of such
11 artwork; and, in the event the artwork has been destroyed or
12 damaged beyond repair at a reasonable cost, or has no or
13 only a negligible value, it may be disposed of as scrap.

14 B. If an artwork was donated to the City on condition
15 that the artwork be returned or transferred to another
16 person or entity when it is no longer displayed or ceases to
17 be a part of the City's collection, upon the occurrence of
18 circumstances making such condition applicable, the Commis-
19 sion shall request directions from the donor or the donor's
20 representative(s), as appropriate, and return the artwork to
21 the donor or transfer the artwork consistent with the terms
22 of such condition, if such condition applies, and the
23 directions of the donor or the donor's representative(s).

24 C. In the event the artist has reserved a right to
25 repurchase the artwork when the City's artwork is to be
26 disposed of, the Commission shall allow the artist a
27 reasonable opportunity to buy it back at its fair market
28 value, as determined by appraisal. Alternatively, the
Commission may accept the exchange of the artwork for one or
more other artwork(s) that the Commission is willing to
include in the City's collection and that has/have an
aggregate appraised value equal to the fair market value of
the City's artwork.

D. The Commission may implement, in connection with
the deaccessioning of any artwork in the City's collection,

1 a written commitment made to the creator or donor of any
2 artwork at the time such artwork is commissioned, purchased,
3 donated, or otherwise procured for the City's collection, to
4 share with such creator or donor a portion of the proceeds
5 of the sale of such artwork upon its deaccessioning and
6 removal from the City's collection if such sale proceeds,
7 after the deduction therefrom of all of the expenses related
8 to such sale, exceed the amount paid by the City for such
9 artwork by at least Two Hundred Dollars (\$200.00) and the
10 portion of such proceeds that is provided to the creator or
11 donor under such commitment does not exceed fifteen percent
12 (15%) of such proceeds.

13 E. No artwork shall be deemed surplus to the City's
14 collection of artworks if the City administrative unit
15 responsible for administration of the fund used to acquire
16 the same requests its retention and the City's legislative
17 authority provides for the continued maintenance of such
18 artwork.

19 Sec. 2. There is added to the Seattle Municipal Code a
20 new section, designated Section 3.56.070, as follows:

21 **3.56.070 Application of Proceeds of Sale of Artwork.**

22 A. The proceeds from the sale of a purchased artwork,
23 after deducting the expenses of the sale and any percentage
24 share due to the artist, as authorized by subsection D,
25 hereof, shall be deposited to the credit of the fund from
26 which the expenditure was originally made to acquire the
27 artwork.

28 B. Any work of art that is an asset of a revenue bond
or voter-approved general obligation bond fund may be
replaced by exchange for one or more other works of art or
an aggregate equivalent value, and may not be disposed of as
surplus or deaccessioned property without being so replaced

until after the redemption date for all bonds of the particular bond issue that served as the revenue source for the acquisition of such work of art.

1 C. The proceeds from the sale of an artwork that had
2 been donated to the City shall be deposited and expended in
3 accord with the donor's direction accompanying the gift, and
4 in the absence of such instructions, to the Municipal Arts
5 Fund for use in acquiring other artworks.

6 D. The Commission is authorized to enter into
7 contractual agreements committing the City to provide the
8 creator of an artwork to be acquired for the City's
9 collection, upon such artwork's subsequent deaccessioning
10 and offering for sale, (1) a first right to purchase said
11 artwork and (2) up to fifteen percent (15%) of the net
12 proceeds of such sale if, following the deduction and
13 payment of all sale-related expenses, such net proceeds
14 equal or exceed Two Hundred Dollars (\$200).

15 Sec. 3. Any act consistent with the authority and
16 prior to the effective date of this ordinance is ratified
17 and confirmed.
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(To be used for all Ordinances except Emergency.)

Section 4. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 24th day of September, 1990,
and signed by me in open session in authentication of its passage this 24th day of
September, 1990.

[Signature]
President of the City Council.

Approved by me this 29th day of September, 1990.

[Signature]
Mayor.

Filed by me this 1st day of September, 1990.

[Signature]
Attest: City Comptroller and City Clerk.

(SEAL)

Published.....

[Signature]
By Deputy Clerk.

SEATTLE ARTS COMMISSION

RECEIVED OMB

AUG 22 1990

305 Harrison
Seattle, WA 98109
206.684.7171

DATE: August 22, 1990

TO: Councilwoman Cheryl Chow

VIA: Andrew Lofton
Budget Director **846879**

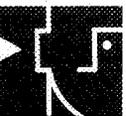
VIA: Gordy Davidson
Legal Department

FROM: T. Ellen Sollo *tes*
Arts Commission Director

SUBJ: Deaccessioning Ordinance/Public Art Collection

Enclosed is a proposed ordinance and explanatory information providing for City policy and procedures for the disposition of artworks surplus to the City's collection. We have been working on developing this ordinance with the Law Department for nearly a year. It has been reviewed by the Commission and recommended as policy by them. We feel that it provides for a very responsible approach to collection management.

Please contact me or Diane Shamash at 684-7171 for further information.



CITY OF SEATTLE

ACQUISITION AND DEACCESSION OF CITY-OWNED WORKS OF ART

Purpose

Provision of procedures for periodic review and evaluation by the Seattle Arts Commission (SAC) of the City's artwork collection in accordance with policies of acquisition and deaccession.

Acquisition Policy

The SAC establishing ordinance (99982), 1% for Art ordinance (102210, 105389) and Gifts Ordinance (107578) designate the SAC as the city department responsible for acquisition of works of art which will enrich the urban environment and increase awareness of the visual arts. To this end the SAC seeks to acquire works of art of the highest quality which are representative of the diversity of artistic expression. Allied with this policy of acquisition is the responsibility of the SAC to evaluate the collection as a whole on a regular basis to determine the current condition of artworks, maintenance needs and consider the deaccessioning of individual artworks.

Deaccessioning Policy

Deaccessioning is a procedure for the withdrawal of an artwork from public exhibition for an indefinite duration either through storage or disposition. Since artworks are acquired by the City through a thorough review process based on the quality and value of the artwork to the collection as a whole, deaccessioning should be considered only after ten years have elapsed from the date of installation of permanent works and five years after acceptance in the case of portable works. Deaccessioning should be cautiously applied only after a careful and impartial evaluation of the artwork to avoid the influence of fluctuations of taste and the premature removal of an artwork from the collection.

Eligible Artworks

- Artworks purchased or commissioned through the 1% for Art ordinance.
- Gifts of artwork approved by the SAC in accordance with the 1978 Gifts Ordinance.
- All other City-owned artworks purchased separately by City departments or received as gifts prior to the passage of the Gifts Ordinance. SAC evaluation of an artwork may be requested by the department owning the artwork or initiated as an advisory action by the SAC.

Deaccessioning Procedure

I) At a minimum of once every five years the Art in Public Places (APP) Committee of the SAC will review the City's artwork collection. The Committee may designate an advisory panel composed of visual art professionals (e.g. artists, museum curators, art critics, art historians) to assist in the evaluation.

II) The APP Committee may consider the deaccessioning of artwork for one or more of the following reasons:

1. A work is not, or is only rarely, on display because of lack of a suitable site.
2. The condition or security of the artwork cannot be reasonably guaranteed in its present location.
3. The artwork has been damaged and repair is impractical or unfeasible.
4. The artwork endangers public safety.
5. Significant changes in the use, character or actual design of the site require a re-evaluation of the relationship of artwork to the site.
6. The artwork has been determined to be of inferior quality relative to the quality of other works in the collection.
7. The City wishes to replace the artwork with a work of more significance by the same artist.
8. The artwork requires excessive maintenance or has faults of design or workmanship.

III) Sequence of action to deaccession:

1. The APP Committee determines that an artwork meets one of the criteria of Section II, above.
2. The Arts Commission staff is requested to prepare a report which indicates:
 - The opinion of the Law Department on any restrictions which may apply to this specific work.
 - An analysis of the reasons for deaccessioning.
 - Options for storage or disposition of the work.
 - Appraised value of the work, if obtainable.
3. The APP Committee reviews report at its regularly scheduled meeting. The Committee may seek additional information regarding the work from the artist, art galleries, curators, appraisers or other professionals prior to making a recommendation to the full Commission.
4. A recommendation for action is sent to the Commission.
5. The SAC considers the recommendation at a regularly scheduled meeting.

IV) Upon confirmation of its recommendation, the APP Committee shall consider the following actions (in order of priority):

1. Relocation of the artwork
2. Storage

3. Sale or Trade

a) Sale may be through auction, gallery resale or direct bidding by individuals, in compliance with City law and policies governing surplus property.

b) Trade may be through artist, gallery, museum or other institutions.

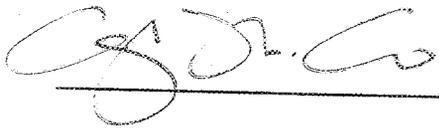
4. No works of art shall be sold or traded to members or staff of the SAC, consistent with SAC conflict of interest policies.

5. Proceeds from the sale of a work of art shall be returned to the Municipal Art Fund departmental account from which the original purchase was made if acquired through the 1% for Art program. Funds from the sale of gifts shall go to the Gifts and Trust Fund for future artwork projects. Any pre-existing contractual agreements between the artist and the City regarding resale shall be honored.

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY
THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:



A handwritten signature in cursive script, appearing to read "C. J. Co", is written over a horizontal line.

_____	_____
_____	_____
_____	_____
_____	_____

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

City of Seattle

Executive Department-Office of Management and Budget

Andrew J. Lofton, Director
Norman B. Rice, Mayor

COPY RECEIVED

90 SEP -6 PM 4:44

SEATTLE CITY ATTORNEY



September 5, 1990

The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

Davidson 11, 591
[Handwritten signature]

REQUESTING
DEPARTMENT

Arts Commission

SUBJECT:

AN ORDINANCE providing for the disposition of artworks surplus to the City's collection through the Seattle Arts Commission, providing for the application of the proceeds of a sale, adding new sections 3.56.060 and 3.56.070 to the Seattle Municipal Code and amending SMC 3.14.828.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Celia Grether at 684-8072.

Sincerely,

Norman B. Rice
Mayor

by *[Handwritten signature]*

ANDREW J. LOFTON
Budget Director

AL/cg/nc

Enclosure

cc: Director, Arts Commission



STATE OF WASHINGTON - KING COUNTY

30944
City of Seattle

—ss.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD: 115337

was published on

OCTOBER 9, 1990

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

[Handwritten signature]
Subscribed and sworn to before me on
OCT 15 1990

Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 115337

AN ORDINANCE providing for the disposition of artworks surplus to the City's collection through the Seattle Arts Commission, providing for the application of the proceeds of a sale, adding new sections 3.56.060 and 3.56.070 to the Seattle Municipal Code and amending SMC 3.14.828.

WHEREAS, the City Charter contemplates that surplus City supplies, materials and equipment will be disposed of by the Purchasing Agent "in the manner provided by ordinance" and that such manner will be through competitive bidding unless otherwise specified by the City's legislative authority; and

WHEREAS, works of art have a character that is distinguishable from publicly owned supplies, material and equipment; and

WHEREAS, various means of marketing artwork exist besides the competitive bidding process, which other means may ensure the continued display of such artwork in the Seattle area even though such art may no longer be owned by the City of Seattle or may ensure the receipt by the City of a substitute artwork rather than cash, either of which means may better serve the interests of the City and its residents than the disposition of deaccessioned artwork through competitive bidding; and

WHEREAS, it is appropriate to make an exception to the traditional processes of disposing of surplus City supplies, materials and equipment, for artwork that the Seattle Arts Commission has determined should no longer remain in the City's collection; Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There shall be added to the Seattle

Municipal Code and to Ordinance 102151, as amended, a new section, designated Section 3.56.060, as follows:

3.56.060 Deaccessioning and Disposition of Surplus Artworks.

A. When the Seattle Arts Commission determines that an artwork is surplus to the City's collection of artworks, the Commission may deaccession the same and arrange for its disposition through an exchange of the artwork for one or more other artwork(s) of comparable aggregate value for the City's collection, with the City being responsible for the payment or receipt of any monetary difference between the value of the City's artwork and the aggregate value of such exchanged artwork(s); through a sale by an art gallery or dealer; through a public auction or process inviting bids or proposals from the public and the acceptance of the best response; through the Purchasing Agent in the same manner as other surplus property; through an indefinite loan to another governmental entity on condition that the receiving entity will maintain the artwork and provide an accompanying notice of the City's retained ownership; or through redonation, sale or another arrangement agreed upon with the donor or artist at the time of the City's acquisition of such artwork; and, in the event the artwork has been destroyed or damaged beyond repair at a reasonable cost, or has no or only a negligible value, it may be disposed of as scrap.

B. If an artwork was donated to the City on condition that the artwork be returned or transferred to another person or entity when it is no longer displayed or ceases to be a part of the City's collection, upon the occurrence of circumstances making such condition applicable, the Commission shall request directions from the donor or the donor's representative(s), as appropriate, and return the artwork to the donor or transfer the artwork consistent with the terms of such condition, if such condition applies, and the

directions of the donor or the donor's representative(s).

C. In the event the artist has reserved a right to repurchase the artwork when the City's artwork is to be disposed of, the Commission shall allow the artist a reasonable opportunity to buy it back at its fair market value, as determined by appraisal. Alternatively, the Commission may accept the exchange of the artwork for one or more other artwork(s) that the Commission is willing to include in the City's collection and that has/have an aggregate appraised value equal to the fair market value of the City's artwork.

D. The Commission may implement, in connection with the deaccessioning of any artwork in the City's collection, a written commitment made to the creator or donor of any artwork at the time such artwork is commissioned, purchased, donated, or otherwise procured for the City's collection, to share with such creator or donor a portion of the proceeds of the sale of such artwork upon its deaccessioning and removal from the City's collection if such sale proceeds, after the deduction therefrom of all of the expenses related to such sale, exceed the amount paid by the City for such artwork by at least Two Hundred Dollars (\$200.00) and the portion of such proceeds that is provided to the creator or donor under such commitment does not exceed fifteen percent (15%) of such proceeds.

E. No artwork shall be deemed surplus to the City's collection of artworks if the City administrative unit responsible for administration of the fund used to acquire the same requests its retention and the City's legislative authority provides for the continued maintenance of such artwork.

Sec. 2. There is added to the Seattle Municipal Code a new section, designated Section 3.56.070, as follows:

3.56.070 Application of Proceeds of Sale of Artwork.

A. The proceeds from the sale of a purchased artwork, after deducting the expenses of the sale and any percentage share due to the artist, as authorized by subsection D, hereof, shall be deposited to the credit of the fund from which the expenditure was originally made to acquire the artwork.

B. Any work of art that is an asset of a revenue bond or voter-approved general obligation bond fund may be replaced by exchange for one or more other works of art or an aggregate equivalent value, and may not be disposed of as surplus or deaccessioned property without being so replaced until after the redemption date for all bonds of the particular bond issue that served as the revenue source for the acquisition of such work of art.

C. The proceeds from the sale of an artwork that had been donated to the City shall be deposited and expended in accord with the donor's direction accompanying the gift, and in the absence of such instructions, to the Municipal Arts

Fund for use in acquiring other artworks.

D. The Commission is authorized to enter into contractual agreements committing the City to provide the creator of an artwork to be acquired for the City's collection, upon such artwork's subsequent deaccessioning and offering for sale, (1) a first right to purchase said artwork and (2) up to fifteen percent (15%) of the net proceeds of such sale if, following the deduction and payment of all sale-related expenses, such net proceeds equal or exceed Two Hundred Dollars (\$200).

Sec. 3. Any act consistent with the authority and prior to the effective date of this ordinance is ratified and confirmed.

Section 4. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 24th day of September, 1990, and signed by me in open session in authentication of its passage this 24th day of September, 1990.

PAUL KRAABEL,
President of the City Council.
Approved by me this 29th day of September, 1990.
NORMAN B. RICE,
Mayor.

Filed by me this 1st day of October, 1990.

Attest: NORWARD J. BROOKS,
City Comptroller and City Clerk.

(Seal) By MARGARET CARTER,
Deputy Clerk.

Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.
Date of official publication in Daily Journal of Commerce, Seattle, October 9, 1990.
16/2000441