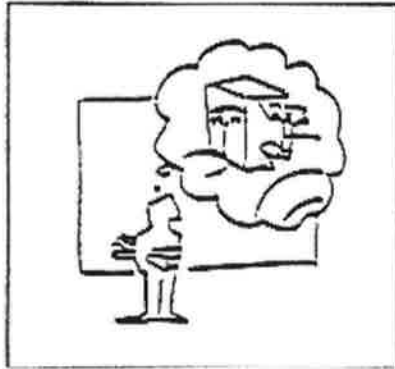


*Art in  
Public Places*

*Program Manual*

# Art in Public Places

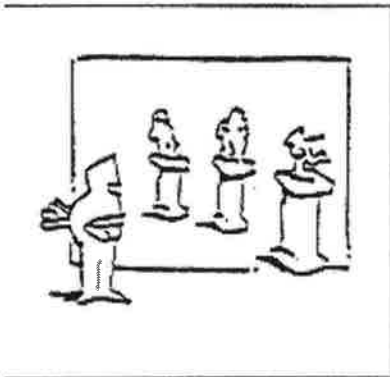
## Step-by-Step



1. Submit building plans



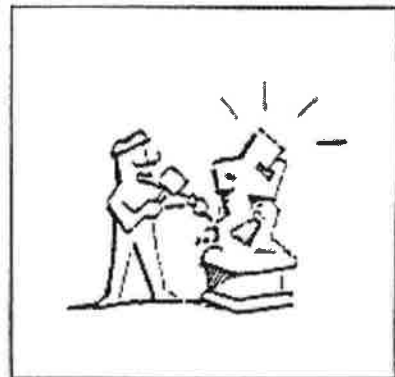
2. City assists developer with process.



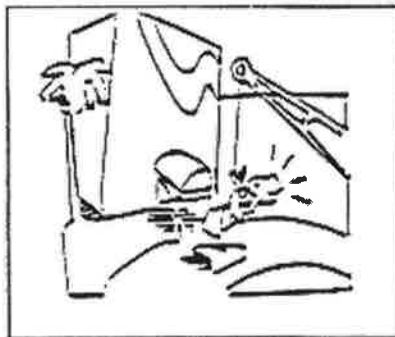
3. Developer selects artist.



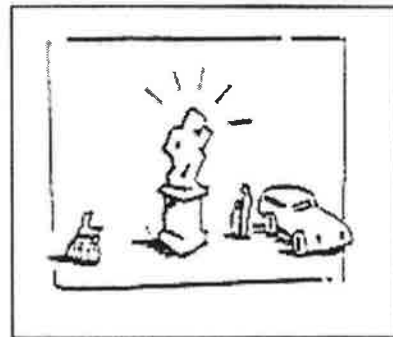
4. Art in Public Places Advisory Committee reviews developers application.



5. Art in Public Places Advisory Committee approves and Recommends to the City Council and when Council approves, developer commissions artist.



6. Art work installed at project.



7. Art added to Calabasas' Art in Public Places.

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### *What is the Art in Public Places Program?*

The goal of Calabasas' Art in Public Places Program is to provide permanent artwork, accessible to the public throughout the City. The program is designed to give the community a wide range of styles, themes and media, all of the highest quality. The vast variety of art styles should provoke discussion and encourage comment.

This Program Manual, in accordance with Ordinance No. 200-153, adopted by the Calabasas City Council describes how Calabasas' Art in Public Places Program works. It gives information on how the City interacts with developers and artists and describes the program's policies.

### *Which Projects Need Art Pieces?*

Developers of new or free standing additions for commercial and industrial projects are required to select, purchase and install permanent artwork accessible by the public. The maximum Art Allocation per project will be set at \$150,000. Developers also have the option of paying the Art Allocation directly to the City. Allocations paid in this manner will be used to provide Art in Public Places elsewhere in the City.

The allocation for artwork is calculated by the City's Building & Safety Division. Other financial arrangements such as a bill of sale, maintenance agreements and payment schedules are negotiated between the developer and the artist. The City may request to see copies of these agreements. If the value of a proposed art piece cannot be verified (by records of comparable work, etc.). The City may choose to have the artist's proposal and/or other completed works appraised by a qualified art appraiser at the applicant's expense.

As a development proposal goes through the plan review process, the Community Development Department will inform the developer that participation in the Art in Public Places Program may be required, and will provide them with a copy of this Manual.

### *Which Expenses May Be Paid Out of the Art Allocation?*

- 1) The work of art, including the artist's fee for design, structural engineering and fabrication.
- 2) Transportation and installation of the work at the site.
- 3) Identification plaques.
- 4) Mountings, anchorages, containments, pedestals, bases, or materials necessary for installation or security of the art work.
- 5) Illumination and landscaping only in unique circumstances when the artist recommends specific lighting or landscaping treatment, integral to the artwork (i.e., a total environment designed by the artist).
- 6) Art consulting fees.
- 7) Appraisal fees for the completed work based on past sales or gallery pricing in addition to an appraisal by an outside art consultant.

### *Which Expenses May Not Be Paid Out of the Art Allocation?*

- 1) The cost of locating the artist.
- 2) Architect and landscape architect fees.
- 3) Land costs.
- 4) Landscaping around the work, not integral to the artwork design.
- 5) Publicity, public relations, photographs or dedication ceremonies.
- 6) Utility fees associated with activating artwork.
- 7) Illuminating the artwork, not integral to the artwork design.

### *Is There Anyone Available to Help with Artists Selection?*

The Art in Public Places Advisory Committee, responsible for reviewing proposed art works, is also available to assist with artists selection. The Committee is comprised of a member of the Parks, Recreation & Education Commission, a member of the Planning Commission, and a City Council appointee, residing in the City of Calabasas.

Developers are free to select and submit artists of their choice. Also, the Art in Public Places Advisory Committee provides assistance, at no charge to the developer, in researching and locating qualified artists for their project. The Committee is working to create an Artists Registry for that purpose. When this Registry is complete, the developer may see examples of work they would like for their project, and staff will put the developer in touch with the artist(s) of their choice. This process will often save the developer time in researching artists, and help them define the type of artwork they would like for their project. For assistance in selecting an artist for this program, please contact the Community Services Department at (818) 878-4225.

### *How Are the Applications Processed?*

Calabasas' Art in Public Places Program is a partnership between the City, the developer and the artist. The processing of a proposed artwork begins when a developer submits a Development Proposal to the City's Planning Division for review. If the project is valued at over \$500,000, staff advises the developer of the Art Allocation amount, and gives the developer a copy of this manual. Further assistance can be provided by the Art in Public Places Advisory Committee.

When the developer has selected an artist, they submit a proposal including the completed materials requested by the Art in Public Places checklist to the Art in Public Places Advisory Committee, and schedules an appointment with the Art in Public Places Advisory Committee for a preliminary review.

After the preliminary review, the developer is advised of any information still needed and is notified of the date and time of the Committee's review of their art piece. The developer is

more than welcome to attend the review process. The Committee meets within thirty (30) days of the date of the final application and supplemental materials are submitted.

The developer is notified within ten (10) days of the Committee's decision. (The art piece should not be commissioned and purchased until approval is received.). If the artwork is approved, the developer notifies the Art in Public Places Advisory Committee of the installation date. The City will work with the developer to publicize the art installation. If the proposed artwork is not approved, the developer will receive a letter stating the reason(s) for denial, and when appropriate, possible modifications or additions that could lead to approval. A final certificate of occupancy *will not be* issued until the artwork is installed.

### *If the Proposed Artwork is Not Approved, What Then?*

The Developer May:

- 1) Accept the Committee's recommendations and make the requested modifications.
- 2) Within a month Select a different artist to create a new design and resubmit.
- 3) Appeal the Committee's decision to the City Council (See below.)

### *How Does the Appeal Process Work?*

- 1) The developer files a written request for an appeal to the City Council within ten (10) days of the notification of the Art in Public Places Advisory Committee's decision. Upon filing of an appeal, the hearing date is set by the City Council and the applicant is notified.
- 2) The Art in Public Places Advisory Committee receives the original application, written reports and appeal request.
- 3) The City Council may affirm, reverse, or modify in whole or in part any appealed decision or requirement.

### *How Does the Committee Review Proposed Artwork?*

- 1) In order to obtain the highest quality work possible, the art allocation should be used for one artwork piece for each project. The developer is asked not to divide the amount and purchase several works for the same project, except as individually agreed upon with the City in development agreements for large and/or phased projects.
- 2) The art work should be easily visible from the public street by both motorists and pedestrians. Exceptions can be made for large enclosed public areas such as shopping malls that may have their art piece(s) in an interior public location.
- 3) The art work should be proportional to the scale of the development.
- 4) The art work must be an integral part of the landscaping and architecture of the building. The art piece must not look like an afterthought to the project.

- 5) Each piece of art is a permanent part of Calabasas' public art collection, its composition should be of lasting materials requiring a low level of maintenance. Applications are screened for durable and weather resistant materials. The continued maintenance of the art work is the responsibility of the property owner. See Page 9 for information regarding ongoing maintenance. The artist should be given first refusal on repair of the artwork, if repairs are ever necessary. If the original artist is not available, another qualified artist, or art conservator may be hired by the current owner to repair the work.
- 6) Water or electronic artwork must always be in good working order and in operation. Moving or water pieces need to include an owner's manual with complete instructions for maintenance and repair of the artwork and its components.
- 7) To assure the current and future value of the collection, the artwork must be designed by artists with experience and knowledge. The artist's qualifications are evaluated in terms of past works, exhibits, work in private and public collections, art training, art education, and printed critiques of past work. Slides of similar work by the artist will be reviewed by the Committee. Verification of the purchase price of past works validates the fair market price of the proposed design. The proposed design should be submitted in the form of a model, whenever possible. Multiple view drawings and photographs are also helpful.
- 8) To maintain the reputation of the program, the following are not considered acceptable:
  - Mass-produced reproductions or replicas of original works of art, functional equipment or statuary objects. Exceptions are signed artwork by the original artist for reproduction.
  - Decorative or ornamental pieces that are not designed by a qualified artist.
- 9) All ranges of artistic styles, materials and types of art works are encouraged to assure a balanced and interesting collection. Applicants are encouraged to select styles, materials, and artists that are under-represented in the existing collection.
- 10) Artists submitting work for review should bear in mind the public nature of these artworks, which is along major public streets. The foremost function of such streets is the safe and expedient transporting of vehicles. Submitted works must be sensitive to this priority.
- 11) Lettering, symbols or signage are not permitted upon the artwork or its foundation.
- 12) Each piece is identified by a plaque approximately 8" x 8". The plaque is usually made of cast bronze and shall be placed in a ground location near the art piece and shall list only the title, the artist, and the date.
- 13) The artwork is an asset to the property. When property is transferred to new owners, they must be informed of their responsibility to maintain the work, its surrounding landscaping and lighting.
- 14) Staff and/or volunteers regularly inspects the condition of each piece for any damage or maintenance problems. Current property owners are informed by letter of their findings and recommendations.

### *Art in Public Places Checklist and Steps*

- 1) The developer is informed about the program and receives the handbook when materials for plan review are submitted to the Planning Department.
- 2) When the developer receives notification of project approval, they will be asked to submit a proposal to the Art in Public Places Advisory Committee.
- 3) The developer schedules a preliminary review with the Art in Public Places Advisory Committee by calling (818) 878-4225 and asking for the Community Services Department and submits the application found on page 10 and encloses the following:
  - Landscape and site plans.
  - Drawings of the proposed art piece stamped by a licensed Structural Engineer certifying that the piece is structurally sound, safe and durable.
  - A sample or model of the art piece.
  - Material samples and finishes (if appropriate).
  - Artist resume record of exhibitions, training, education, collections, critiques or articles).
  - Building valuation as determined by the International Conference of Building Officials.
  - Artist/Developer Contract, including maintenance provisions as outlined later in this document. An unsigned copy may be submitted for preliminary review, but a signed copy must be received by the City within 2 weeks of approval.
  - Slides and/or photos of the artist's similar past work, accompanied by verification of the past selling prices of these works.
- 4) The developer and Art in Public Places Advisory Committee for a preliminary review.
- 5) The developer receives a letter with the Committee's recommendation. A copy is sent to the City Council for approval.
- 6) Upon Council approval of the recommendation, the developer informs the City of the installation date. In most cases, the approved artwork must be installed at the property before the certificate of occupancy will be issued.
- 7) The developer may contact the Art in Public Places Advisory Committee about any plans for a dedication or unveiling ceremony of the art piece. The City can provide public relations assistance for such an event.

### *Can an Art Piece Be Donated to the City?*

Although the art work is located in public view, the intent of Calabasas' Art in Public Places Program is for the art to be located on private property as part of the fixed assets of that property. Therefore, the City does not encourage the donation of public art to the City.

However, in special cases where it is impossible for artwork to remain on private property and/or be maintained by the property owner, the City may consider accepting the donation of an art piece. Property owners may submit a written request to the Art in Public Places Advisory Committee describing the unique circumstances and the reasons why they are



requesting the City to accept the donation of the art piece. The Committee will study their request, discuss the proposal and forward a recommendation to the City Council. Factors they will consider include:

- The possible necessity of relocating the piece including the cost of relocation, the availability of an appropriate site and the risk of damaging the work.
- How granting the request would affect the Art in Public Places Program.

### *Can an Existing Art Piece be Designated as Part of the Art in Public Places Collection?*

The property owner may submit a written request to the Art in Public Places Advisory Committee asking that their piece be officially designated a part of Calabasas' Art in Public Places collection. The Committee will schedule a meeting to review the art piece. The property owner is welcome to attend this meeting.

Before the meeting, the property owner will need to submit a completed Art in Public Places application as well as Photos of the object from several angles, the Artist's resume, the owner/ Artist contract, and maintenance provisions. The property owner will be notified of the City's decision by mail.

### *What Ongoing Maintenance is Required?*

Current property owners are responsible for maintaining the art. Developers must include in the artist's contract, maintenance provisions that stipulate the length of time (typically one year) the artist will be responsible for repairs. A copy of this contract will be submitted to the Art in Public Places Advisory Committee with the application. Artists are also required to provide a maintenance manual to the property owner. This manual will include ongoing maintenance requirements and methods including details such as brands and mixes of pigment, types of bolts used, color samples and material finishes.

### *What Happens if an Art Piece is Damaged or Destroyed?*

The property owner is also responsible for repairing the art. Vandalized or otherwise damaged art must be repaired as closely as possible to the original approved art. Stolen or removed artwork should be replaced and resubmitted to the Art in Public Places Advisory Committee. If repair is needed, the original artist should be notified and given the opportunity to do the repair for a reasonable fee, provided the artist's responsibility, stipulated in the contract, has expired. If the original artist is not available, an art conservator must be contacted. State Civil Code: 1982 California Art Preservation Act (987ETSEQ.) Federal Code: Visual Artists Rights Act of 1990 (17 USC #101.106A, 107, 113, 301, 411, 412, 501, 506.) See Appendix.

## *City of Calabasas Art in Public Places Application*

Location/ Address:	
Project Name:	Project No.:
Developer:	Phone:
Property Owner:	
Title of Artwork:	
Artist:	Phone:
Address:	
City:	
Media:	
Approximate Weight::	Dimensions:
Approximate Cost to Produce:	
Artist's Selling Price:	
Description of Art Piece:	
Location of Identification Plaque:	
Description of Sculptural Foundation or Base:	
Date of Installation (a specific day):	
Location (be specific):	
Distance Between Public Street and Art Piece:	
Landscape Description:	
Lighting Description	
Dedication/Unveiling Plans:	

### For City Use Only

Development Valuation:	
Minimum Art Allocation:	
Date Submitted:	Committee Action: Approved / Denied
City Staff Person Accepting Application:	

## *Committee Review Checklist*

Project:			
Artist:			
Date Reviewed:			
Committee Members:			
<b>Meets Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
<b>I. Art Piece</b>			
Permanent and weather resistant media			
Building and artwork are well integrated			
Art does not look like an afterthought			
Style media and subject matter fits the existing program's balance			
Public response (provokes discussion, a closer look, intrigues, pacifies, reflects, etc.)			
Safety conditions			
Original work (if limited edition, has stated limit)			
<b>II. Artist</b>			
Education / training			
Exhibit records and collections			
Experience on large scale artworks			
Verification of purchase price of past works			
<b>III. Site</b>			
Visible/ accessible to motorists and pedestrians			
Landscaping			
Lighting			
Label and no signage			
<b>IV. Artist/Developer Agreement</b>			
<b>V. Summary Conclusion</b>			
<b>VI. Follow-up Needed</b>			
Date approved / denied by Committee:			

## *Appendix*

### **1982 CALIFORNIA ART PRESERVATION ACT**

State Civil Code 987ETSEQ applies to artwork sold or created after 1982. The civil code states that no person except the artist can deface, mutilate, alter or destroy a piece of art. "...the physical alteration, or destruction of fine art, which is an expression of the artist's personality, is detrimental to the artist's reputation and artist's therefore have an interest in protecting their works of fine art against any alteration or destruction."

### **VISUAL ARTISTS RIGHTS ACT OF 1990**

The Visual Artists Rights Act of 1990 amends copyright law providing new rights for visual artists for artworks sold or created after June 1, 1991. The legislation creates a uniform, national standard for protecting visual artists' rights. The legislation provides visual artists with the right of attribution—the right to claim authorship of a work of art and to object to the false attribution of authorship. In addition, the Act provides for a legal cause of action to allow an artist under specified circumstances to prevent the destruction, distortion, mutilation, or modification of a work of visual art.

#### **Works Covered**

The bill is limited only to "work of visual art." A work of visual art is a painting, drawing, print, or artwork existing in a single copy or in a limited edition of 200 copies or less. The copies of a limited edition must be signed and consecutively numbered by the artist. In the case of multiple cast, carved or fabricated artwork, the work must be a limited edition of 200 or less, be consecutively numbered by the artist, and bear the signature or "other identifying mark" of the artist.

#### **Attribution and Integrity**

The Visual Artists Rights Act establishes a right of authorship for a work of visual art. It provides a mechanism for the visual artist to claim authorship of a work he or she created, as well as to prevent the use of his or her name on a work he or she did not create. The bill makes clear that this right includes the right to publish a work of art anonymously or under a pseudonym. The artist also has a right to demand that his or her name be removed from a work in the event of a distortion, mutilation, or other modification of the work that he artist has not consented to, and is prejudicial to his or her honor or reputation.

The bill also establishes an artist's right to prevent the intentional distortion, mutilation or other modification of a work that is harmful to the artist's honor or reputation. In addition, an intentional distortion, mutilation or modification of the work which is harmful to the artist's honor or reputation is a violation of that right and would give rise to a lawsuit by the artist for damages. In any such action, the artist has the burden of establishing that the alteration of the work is harmful to his or her professional honor or reputation. A negligent act which alters a work is not subject to suit under this statute.

Artists are also given the right to prevent the destruction of a work of recognized stature. The destruction of a work of recognized stature by an intentional act or an act of gross negligence is a violation of the artist's right and would subject the person destroying the work to suit for damages by the artist.

There are several exceptions to the right of integrity. First, a modification of a work which is a result of the passage of time or the inherent nature of the material is not actionable. Second, the modification of a work which is the result of conservation or the public presentation of the work including lighting and placement is not actionable unless the modification of the work is caused by gross negligence.

### **Duration of Rights**

The Visual Artists Rights Act of 1990 took effect on June 1, 1991. With respect to works created on or after the effective date, the rights contained in the new law will extend for the life of the artist. In the case of a joint work prepared by two or more artists, the rights will extend through the life of the last surviving artist. If a work was created prior to the effective date, the rights under the statute apply if title to the work has not been transferred prior to the effective date. If title has been transferred prior to the effective date, the federal statute is inapplicable.

### **Transfer and Waiver**

Only the artist has the rights created by the Act. No rights may be transferred under this Act. Rights may be waived, if the artist agrees to the waiver, in writing and must be signed by the artist. The written waiver must meet the following criteria: it must specifically identify the work, the uses as identified in the written waiver. In the case of a joint work, a waiver made by one artist waives the rights for all artists of the joint work.

Transfer of ownership of a copy of a work of visual art (as defined above) does not constitute a waiver of rights. The rights apply unless there is a specific written waiver as outlined above.

### **State Law Preemption**

The Visual Artists Rights Act attempts to create a uniform national standard with respect to the rights of integrity and attribution. Therefore, the Act preempts or extinguishes all legal or equitable rights which are equivalent to the rights conferred by the Visual Artists Rights Act. This general rule of preemption is subject to three important exceptions. First, the Act does not preempt rights which are not equivalent to the rights contained in the bill; for example, California's resale royalty statute would not be preempted by this Act. Second, as noted above, the statutes which extend rights beyond the life of the artist are not preempted by this Act. Finally, this Act does not preempt a cause of action arising from undertakings commenced before the effective date of the statute.

## **Remedy**

Like copyright infringement, an artist who seeks to assert his or her rights under the statute may do so by filing a lawsuit in federal court. An artist may seek an injunction to claim authorship or disclaim false authorship of a work or to prevent distortion, mutilation or destruction of a work as outlined above. If the distortion, mutilation or destruction has already occurred, the artist can sue for damages—the artist can either establish the actual damage to his or her honor or reputation or claim the statutory damages of up to \$10,000. If the artist prevails in court, the judge may also order the defendant to pay the artist's attorney fees.

## **Removal of Visual Art From Buildings**

If a work of visual art has been incorporated or made part of a building in such a manner that removal of the work would cause the destruction, distortion, mutilation or other modification of that work, the rights shall not apply if the artist consented to the installation of the work in the building before the effective date of the law. In addition, these rights shall not apply if the artist and the building owner have executed a written statement that installation of work may subject the work to destruction, distortion, mutilation, or other modification, by reason of its removal.

If the owner of a building wishes to remove a work from a building and the work can be removed without its destruction, distortion, etc., the artist's rights will apply but there are exceptions. The right will not apply if the owner has notified the artist, in writing, that he or she intends to remove the work, and the artist has failed to respond to the owner's notice that the artist must either remove the work or pay for its removal within 90 days after receiving the owner's written notice. The written notice must be sent by registered mail to the artist at his or her most recent address. If the work is removed at the artist's expense, title to that copy of the work belongs to the artist.

In order to give artist the practical opportunity to remove works which have been incorporated into buildings, the Register of Copyrights must establish a system or records whereby the artist of the work that has been incorporated in or made part of a building can record his or her identity and current address. There will be a system by which the artist may update the information, and a system under which the owners of buildings may record evidence of their efforts to comply with the law.

## **Law**

A copy of the law can be found: Federal Code; Visual Artists Rights Act of 1990 17 USC #101.106A, 107, 113, 301, 411, 412, 501, 506. Materials written above were excerpted from "Congress Passes Visual Artists Rights Act", National Artists Equity, Autumn, 1990.

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS  
CITY OF CALABASAS )

I, **ROBIN PARKER**, City Clerk of the City of Calabasas, California, **DO HEREBY CERTIFY** that the foregoing ordinance, being **Ordinance No. 2000-153** was duly adopted by the City Council of the City of Calabasas, at a regular meeting of the City Council held July 19, 2000, and that it was adopted by the following vote, to wit:

AYES: Mayor Washburn, Mayor pro Tem Lee, Councilmembers Bozajian, Devine, Sibilis.

NOES: None.

ABSTAIN: None.

ABSENT: None.



Robin Parker, CMC  
City Clerk/Administrative Services Director  
City of Calabasas, California