



ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTS EXAMINERS

Screening of New Street Artists and Additional Crafts

November 7, 2017

ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTS EXAMINERS

MINUTES

Members Present:

Sandy Barns, Carolyn Kualii, Sean Nash, Jon Winge

Members Absent (if applicable):

Sean Nash

Staff Present:

Market Manager, Anne Trickey

Meeting convened (TIME): 1:15 p.m.

2. Public Comment.

Discussion.

Anne Trickey informed Ann Treboux that her comment about the Board of Appeals was not under the jurisdiction this Committee.

3. Screening of New Artists and Additional Crafts.

- 1) Artist(s): Suaro Cervantes and Jennifer Greco

Item(s): painted ornaments

Artists sent in videos and photos of items before the screening process. High quality acrylic in glass ornaments with decorations. Artists demonstrated items and receipts.

Hand painted brush work for local themed decorations.

The family unit was approved.

- 2) Artist(s): James “Jimmy” Descant

Item(s): found items sculpture

Recycled objects drilled and glued to display backings. Sent in a video of demonstration construction. The performance of construction is essential to the art concept.

Jimmy was approved.

- 3) Artist(s): Maricio Trabuco and Lucia Candela Ferrandez

Item(s): ornaments made with
silicon, glass paint, mosaic

Family unit works together to create ornaments. Fond glass to be too heavy, moved to silicon instead. The colors are vibrant. Need to follow-up with receipts.

The family unity was approved.

- 4) Artist(s): Marina Morales

Item(s): ornaments

Figurative ornaments with ribbon and notion decorations.

Marina was approved.

4. Copying Issues between licensed artists.

Discussion.

Ryan Dempsey made public comment about his work that another artist is copying in the program. He feels that the other artist is purposely undercutting his business with an inferior product. Ryan requested a possible rescreening of this artist.

Ms. Treboux made public comment about the process for this agenda item.

Ms. Trickey addressed copying as a repeated issue in the program. There is no method for enforcement without a federal court copyright finding. Discussed how local sports teams use the police to help monitor illegal vendors. Pointed out that there are two issues at hand. There is the copying issue and then there's the fair and respectful business aspect. Mentioned that the Advisory Committee is the enforcement part of the agency.

Sandy Barnes asked if they had been screened into the program for dog leashes.

Ms. Trickey said yes and that the program does not want to bring in artists every time they iterate a design, but that this is clearly copying. She said that a request for having them come back in would require the use of a translator.

Caroline Kualii asked if there was another vendor selling leashes. Ms. Trickey said no, but that there may be illegal vendors near the artist selling areas.

Jon Winge asked for clarification on Advisory Committee members roles for approving the license, specifying that artists must do the work themselves. He mentioned there was no mention of "originality" in the current criteria and that it might be difficult to judge between shades of gray.

Ms. Kualii asked if anyone has a copyright on this design. Ms. Trickey asked Mr. Dempsey and he said it was too obvious. Ms. Trickey mentioned there are artists with patents in the program and that if the office knew the patent holders and saw similar items while monitoring they could document that for the patent holder to use in a case if need be. It's not something that the Arts Commission could enforce since the person holding the patent would need to take action in court, but could use



that for disciplinary action in the program. She mentioned the different levels from suspension to removal from the program.

Ms. Kualii commented on oversaturation of an item, the difficulty of controlling or limiting specific items. Ms. Trickey clarified for the audience about how to make public comment at the meeting. She said as new Advisory Committee members, they are beginning to have an understanding of how things happen within the guidelines and laws, but that the artists don't understand. The program needs to educate and inform the artists about topics like this so that they understand the Advisory Committee's authority and role.

Mr. Winge mentioned there's a difference between caring about the artists and being able to act on an issue as an Advisory Committee member.

Ms. Trickey clarified that there are other artists that think copying isn't something the Arts Commission should be involved in.

Ms. Barnes said we could inform the artists on how to get a patent or copyright and what their options are.

Ms. Kualii asked how that would be communicated to the artists, through a newsletter, etc. Mr. Winge mentioned a Q & A session. Ms. Kualii said there's a need for different workshops on areas of interest or programming around training.

Ms. Trickey mentioned that this was a finding in the strategic plan, but that it was ranked as least important by the artists and that any information would need to be cognizant of the language access needs of the program. Meeting artists where they're at would need more staff support and resources.

Ms. Kualii said online is great, Ms. Trickey said it needs to be less dense written information and more video content. Ms. Kualii brought up an IRS tutorial as an example for basic information access and asked if a staff member could search for resources.

Ms. Trickey mentioned that artists want to see more action. Ms. Kualii asked for priorities. Ms. Trickey listed screening and monitoring as the priorities. She said the most heard issues on the street are copying, commercial items, and viable selling locations. Other issues include safety of the marketplace that would require interagency coordination. She mentioned that this topic would continue and be agendized again.

Ms. Kualii wants to see ways the program can make artists more comfortable about this topic.

4. Monitoring of Commercial Items.

Discussion.

Ms. Treboux submitted the following written public comment.

The 4th and Market corridor has not been monitored by the SFAC in over 4 months. Fama Thiam, has been selling commercial jewelry there for 25 years. She was called in over 7 years ago. $\frac{3}{4}$ of her stand was banned because she couldn't make any of the items she sells. She has been selling commercial jewelry since then. There have been many complaints on her over the years that have been ignored. Last Saturday, she called me a "racist bitch" because I took a photo of her stand. The advisory committee's job is to monitor and inspect in the street. This is not happening. Trickey tells street artists that she isn't going there and doesn't care what is going on at 4th and Market.

Ryan Dempsey made public comment about the angry bird crochet hats. He said these are clearly commercial as well as copyright infringement. He asked that a rule be instated in the program to ban the clearly copyrighted items. He said you can tell the ones that are handmade versus purchased commercially. His friend makes them and donates proceeds to cancer, and folks will return them because they can get a cheaper item down the street.

Ms. Trickey discussed the crochet hat issue. She gave the history of the copyrighted icons and the previous studio visits for these licensed artists that were performed by the Advisory Committee. The artists licensed for the crochet hats were timed during studio visits and all of the artists passed. It's possible they demonstrated that they can make them, but are now purchasing them online to sell. According to the City Attorney, the owners of Angry Birds or Spiderman would have to find against these specific artists in order to enforce a copyright infringement issue. There may be a way to use criteria for "original design" with help from the City Attorney as a way to push back during the screening process for clearly copyrighted items.

Mr. Winge said we are discerning between art and a resale. Ms. Trickey brought up that the original designers of the legislation feel that there should be no review of "artistic" content and that the only thing the screening should do is review if a person can make an item or not.

Ms. Barnes said that using something owned like Spiderman, seems not aligned with the program. Ms. Trickey mentioned it's the Advisory Committees call.

Mr. Winge mentioned that whether they're doing something "wrong" or not is not under the Advisory Committee's jurisdiction, but that they can look at who gets access to the spaces with the help of "originality" in the criteria. Ms. Trickey clarified that commercial items are not allowed in the

program, but that with this issue, they proved they “can” make it, but are not always selling the ones they make.

Ms. Kualii asked if it’s ok to make a familiar design as long as they are making it. Ms. Trickey confirmed. Mr. Winge asked if we can’t tell the difference and Ms. Trickey said that’s what was brought up about the hats. She mentioned you can tell the difference between machine crocheted and crocheted by hand, which requires the program to look at each hat individually.

Ms. Barnes brought up that the program screened in a person using an embroidery machine. Mr. Winge said there’s multiple levels of mechanisation in fabric arts so that the focus for protection and licensing should be that the person is creating an original product that they’re bringing into the program. There has to be a way not to get into the minutia and revise the criteria for high level decision making. Mr. Winge said focusing on the originality is the key to helping control commercial items.

Ms. Kualii asked what is happening with this particular issue. Ms. Trickey described that during monitoring one thing to check is to see if there is tag attached. Ms. Kualii asked how the program documents these issues. Ms. Trickey described how after a report the program sends out a warning from the program. She described the current three step warning process and mentioned that the type of disciplinary action that happens is now under the jurisdiction of the Advisory Committee so that there’s a through line between the monitoring and the disciplinary action.

Ms. Kualii mentioned she was surprised no artist had questioned what she was doing while monitoring. Ms. Trickey mentioned that artists are required to produce their license when asked by anyone. She described other areas where there are other agencies such as Police and Business District Ambassadors. She said she would have Advisory Committee badges ready for the next meeting.

5. New Business and Announcements.

Discussion.

Neil Levine made public comment on how to enforce monitoring of copyright law in a way that makes it difficult over time. He suggested a conflict resolution option for copying issues. He recommended not having a definitive decision, but a conversation in the interest of the community getting along. He said when someone’s accused it helps both parties to review it so that they can see the differences and intentions of both.



There being no further business, the meeting adjourned at 2:56 p.m.

Respectfully submitted,

Anne Trickey
Market Manager