



SALT LAKE COUNTY AUDITOR'S OFFICE

SEAN THOMAS

Auditor

April 8, 2005

Chris Crowley, Director
Department of Community Services
2001 South State Street, N-4300
Salt Lake City, Utah 84190

RE: County Art Collection Inventory

Dear Chris,

We recently completed an inventory of the Salt Lake County Art Collection, performed in conjunction with an inventory of County antiques, for which a separate letter was issued. As part of the art inventory we reviewed the art acquisition and de-accessioning processes to determine if these processes were in compliance with Countywide Policy #1003 "Visual Art Acquisition," Countywide Policy # 1004, "Art Deaccessioning," and Countywide Policy #1006 "Gifts."

Salt Lake County has over 400 objects in its public art collection, valued at approximately \$1.6 million. The pieces range from small oil paintings to Native American art to large sculptures, such as the "Salt Palace Windmills." The collection is managed by the County Community Arts Specialist. Though the specialist's salary is paid from the Center for the Arts budget, the artwork itself is purchased from the Facilities Management budget. The specialist has her office with Facilities Management personnel, but reports to both the Facilities Management Director and the Director of the Center for the Arts.

Two inventory listings of artwork exist. One list is maintained on the County's financial system, "Advantage Financial" (AFIN), and the other list is generated and maintained by the Community Arts Specialist. To perform the art inventory, we printed a list of County-owned art from AFIN, and also obtained a complete list of art from the Community Arts Specialist's records. We inventoried each piece of art using these two lists. As we completed the inventory and associated fieldwork, we found the following:

- **One oil painting, located at Mick Riley Golf Course, was missing from the County art collection.**

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- **County art acquisitions, whether purchased, donated, or acquired as public art, followed established policy and procedures.**
- **The County art collection is effectively tracked, and each piece is accurately documented.**

One oil painting, located at Mick Riley Golf Course, was missing from the County art collection. As a starting point for the inventory, we used the “Capital Asset Inventory by Organization” report (AFIN0801) from the County’s financial reporting system. In essence, this report lists all County fixed assets, including art. Policy #1003, Section 4.4, states, *“The County Auditor’s Office shall be notified each time there is an acquisition and/or donation of visual art. The necessary paperwork detailing the acquisition of the art shall be completed and forwarded to the Auditor. The Auditor shall add the art to the County’s fixed assets.”* Therefore, we anticipated that all visual art owned by the County would be on this report.

At the time of our audit, there were 436 paintings and pieces of artwork on the inventory list, including recently acquired and public art. Public art is purchased through construction fund monies and typically constitutes large pieces of artwork incorporated into the structure and design of a building. We were able to locate every piece of art on the AFIN0801 report except for “Golf Course View,” an oil painting on board, last located at Mick Riley Golf Course. We could not find the painting despite extensive searching at the golf course and follow-up discussions with current and past golf course personnel. It is likely that the painting was removed from its location in the cafeteria during some remodeling in 2000. No one can recall seeing the painting after that.

The Community Arts Specialist conducts bi-annual inventories of the art collection. The most recent inventory occurred during 2003. The Capital Assets team of Accounting and Operations in the Auditor’s Office received a memorandum from Facilities Management in February 2004, certifying that an art collection inventory for 2003 had been completed. The memo also asserted that the AFIN0801 report dated “...as of 02/27/04, represents a complete and accurate record of all fixed assets for which our organization is responsible.” A review of the AFIN0801 report for that time frame shows that the picture, “Golf Course View” (Asset Number 59565), was on the list. Therefore, either the inventory activity was incomplete, or the painting became missing since 2003.

“Golf Course View” was painted by Matt Madsen and is a landscape of the first and ninth holes at Mick Riley Golf Course. The piece was donated in 1978, and its value was listed at \$50 on the earliest inventory record we found. The current value, per the AFIN0801 report, is \$350. Personnel at the golf course did not hold the painting in high regard, and therefore, concern for its whereabouts may not have been a priority. Nevertheless, as with any County asset, it should have received due vigilance and care.

We also found that not all County art is listed on the AFIN0801 report, most notably public art. Examples of public art include “Salt Palace Windmills,” or “Glaciated Mass” at the South Towne Exposition Center. In the case of the Salt Palace or South Towne Exposition Center, the Municipal Building Authority (MBA) bond paid for the construction and art acquisition. The art will be owned by the MBA until the bond is retired, at which time the artwork will revert to County ownership and be added to AFIN0801.

With regard to the missing painting at Mick Riley Golf Course, a letter should be addressed to the Mayor, explaining the circumstance of the loss, and requesting that it be removed from the AFIN0801 report. The Mayor’s approval is then forwarded to the Auditor’s Office, together with a Form PM-2, “Salt Lake County Personal Property Transfer/Disposal/Internal Sale,” to execute removal of the painting from AFIN0801.

RECOMMENDATION:

We recommend that the Community Arts Specialist prepare a letter to the Mayor requesting approval for the missing, and presumed stolen, Mick Riley Golf Course painting to be removed from the AFIN0801 report.

County art acquisitions, whether purchased, donated, or acquired as public art, followed established policy and procedures. Art is primarily acquired by purchase or donation. The purchase process begins with the Art Collection Committee, but final approval is by the Center for the Arts Advisory Board. Policy #1003, Section 3, outlines criteria for the committee to follow when acquiring art. Key elements of this policy include:

- The work must be of high quality, museum grade, with high aesthetic or historical value.
- The work or artist must have some connection to Utah (i.e. the artist was born or has lived or worked in Utah, or the artwork represents Utah landscape or portraiture).
- The artist should be a professional artist, and the work should enhance or complement the current collection.
- The work must be appropriate in scale, material, form and content, and should acknowledge the practical considerations of quality, durability, ease of maintenance and public safety. The work must be able to hold up and be maintained in a non-museum setting.

The committee evaluates the needs of the collection in terms of period and genre, among other factors, and then goes about the process of finding art that fits the needs of the collection and meets the criteria of Policy #1003. Proposals are made to the Art Committee by its own members, artists or gallery owners. Recommendations for art acquisition are forwarded to the Center for the Arts Advisory Board, which, as noted previously, has final determination authority for acquisitions. Notice of approval for

Chris Crowley, Director

April 8, 2005

Page 4

purchase is forwarded, along with a "Requisition Order Form," to Contracts and Procurement for processing.

Donations to the County art collection are received by the Community Arts Specialist. In accordance with Countywide Policy #1006, she notifies the Auditor's Office of receipt of the donation, along with pertinent information regarding the nature of the work, such as title, artist, media and size, so that the item can be added to the AFIN0801 report. Upon addition to the report, an asset number is issued for the piece and an asset tag is forwarded to the Community Arts Specialist to be attached to the art.

A third means of art acquisition is public art. Public art, as explained previously, is designed to fit into, and be a part of, a newly constructed County facility. This art is acquired by the "Request for Proposal" (RFP) process. The RFP is published and proposals are submitted concurrent with construction of the new facility. A committee is established to select artwork from submitted proposals. The committee is comprised of members of the community, the Art Collection Committee, the architect for the facility under construction, and ad hoc members selected according to the design and needs of the facility being built.

The two most recent RFP's for public art were the South Jordan Library and the Draper Library. In addition to non-voting staff, the selection committees for these two projects consisted of the architect, a community member, and representatives from the artistic community, the Library Board, the Library Division and two representatives from the Art Collection Committee.

There has been no art de-accessioned in the last ten years, therefore we did not have any such transactions to review. However, the Community Arts Specialist is fully aware of the de-accessioning guidelines in Policy #1004, including the role of the Art Collection Committee and the requirement to follow County surplus procedures.

As we reviewed art acquisitions for 2004, we found a conflict of interest where the County purchased a painting whose artist also served on the Art Collection committee. Policy #1003, Section 4.3, states, "*No member of a governing body, staff or those whose association with the County might give them advantage in selling the work, shall be permitted to sell, directly or indirectly, a work to the County, or otherwise to benefit from its sale or trade except as may be permitted under state statute dealing with ethics and conflicts of interest.*"

The Art Collection Committee approved the purchase of the painting at a meeting held October 14, 2004. At that meeting, twelve pieces were presented as potential acquisitions. Three, including the painting in question, were approved for purchase, following a vote of the committee. Ten members voted in favor of the acquisitions and one member abstained. The artist herself was not present at the meeting. Moreover, the painting was purchased from a gallery and not the artist directly.

The applicable State statute regarding conflicts of interest is the Ethics Act. Utah Code Annotated § 67-16-1, *et seq.* § 8 of the Ethics Act prohibits “a public officer or public employee” from participating or receiving compensation in respect to a transaction with the County, “unless disclosure has been made as provided under § 67-16-7.” That section sets out disclosure procedures for persons with a potential or actual conflict of interest. It is likely that everyone on the Art Collection Committee knew that the artist and committee member were one and the same, however, a conflict of interest statement was not on file at the time of the purchase.

We requested and received an opinion from the District Attorney’s Office on this matter, included here as Attachment A. In the opinion, the attorney states “...the acquisition would be lawful and in compliance with Policy #1003 if we receive the required disclosure statement...” The Community Arts Specialist is in the process of acquiring a conflict of interest disclosure statement from the artist/committee member.

RECOMMENDATION:

We recommend that members of the Art Collection Committee complete conflict of interest disclosure statements in such instances where the County would purchase artwork created by a committee member, or from a committee member’s business or business interests.

The County art collection is effectively tracked, and each piece is accurately documented. With the exception of the Mick Riley Golf Course painting, we located all artwork detailed on the Community Arts Specialist’s list and the AFIN0801 report. Moreover, we commend the Community Arts Specialist for complying with provisions of Countywide Policies #1003 and #1006. These policies require that the Auditor’s Office be notified when donations of artwork are made to the County. Policy #1006, Section 2.7, states, “*If accepted by the County council the agency initiating the request to accept the gift(s) shall prepare the necessary property inventory forms, where applicable. Upon completion, such forms shall be forwarded to the County Auditor’s Office for inclusion in the fixed asset account.*”

In our inventory process, we reviewed art donated to the County in 2004 to determine if the Auditor’s Office had indeed been notified of acquisitions in accordance with the requirements of these policies. We found that 13 pieces of artwork were donated to the County in 2004, and in all cases appropriate notification was made to the Auditor’s Office. Moreover, the artwork was added to the AFIN0801 report and provided with asset numbers and tags.

We also compared the artwork list maintained by the Community Arts Specialist to the AFIN0801 report. The Community Arts Specialist tracks the County art collection using a computerized database. We found that the database list had more items than the AFIN0801. Two reasons accounted for this discrepancy. First, the database includes public art such as the “Salt Palace Windmills” and South Towne Exposition Center’s “Glaciated Mass,” both of which were purchased as part of facility construction. They

Chris Crowley, Director

April 8, 2005

Page 6

are still under obligation to the Municipal Building Authority, and as such would not be listed on AFIN0801. As discussed above, these works of art will revert to the County and be added to the AFIN0801 report when the bond is retired.

Second, the Community Arts Specialist adds new acquisitions to the database relatively quickly, whereas, purchases and donations may require two to three months to process through the County's financial reporting system and be placed on the AFIN0801 report.

We appreciate the efforts of you and your staff. We trust that our work will be of benefit to you. The safeguarding of County assets is an important aspect of operational activities requiring constant attention and care. If you have any questions, please feel free to contact me.

Sincerely,

James B. Wightman, CPA
Director, Audit Division

cc: Arlene Johnson
John Patterson
Steve Spencer, CPA
LeAnne Sarver, CPA
Judi Higginson
Victoria Panella-Bourns

M E M O R A N D U M

To: Jim Wightman
From: Gavin J. Anderson
Date: March 17, 2005
Re: Art Collection Committee—Conflict of Interest

I had a recent telephone conversation with Charlie Kulp regarding the County's acquisition of a work of art which was painted by a member of the County's Art Collection Committee. The artist, [REDACTED], did not attend the Collection Committee meeting at which the purchase was discussed and therefore [REDACTED] did not participate in either the discussion or the vote.

The county's policy regarding art acquisition, Countywide Policy 1003, provides that a person cannot sell an artwork to the county if they have some "association with the county [which] might give them advantage in selling the work." This would apply to [REDACTED]. However the policy also provides that such a sale can be allowed if "permitted under state statute dealing with ethics and conflicts of interest."

The applicable statute regarding conflicts of interest is the Ethics Act, UCA § 67-16-1, *et seq.* § 8 of the Ethics Act prohibits a person in [REDACTED] situation from participating or receiving compensation in respect to a transaction with the county, "unless disclosure has been made as provided under § 67-16-7." That section sets out disclosure procedures for persons with a potential or actual conflict of interest. I have talked to Vicki Bourns, the executive secretary to the Art Collection Committee, and she is in the process of securing a disclosure statement from [REDACTED]. I have also suggested what she needs to include in that disclosure statement in order to meet state statutory requirements. Therefore, I believe the acquisition would be lawful and in compliance with policy 1003 if we receive the required disclosure statement from [REDACTED], as described above.

I trust this adequately responds to your concerns. If I can provide further assistance, please contact me.

Pc: Vicki Bourns
Charlie Kulp

Attachment A