Response to Grand Jury, SF Art Commission, Street Artists Program
John Tunui to: alisa.miller@sfgov.org 09/27/2012 03:01 PM
Cc: Licouris Alyssa, Howard Lazar

History: This message has been replied to.

Response to the Grand Jury.

From:

Respondent John Tunui,
Street Artist's Market Manager at Justin Herman Plaza. (2011 & 2012)

FINDINGS

F 28.

"The Street Artist's annual fees since 2000 have increased in large part due to the costs of defending the Program Manager from violations of the Sunshine Ordinances from the Street Artists."

I partially DISAGREE with the finding.

According to the Clark brothers, they and Michael Addario were the only people that requested information by asserting the Sunshine Ordinance, in some cases running up to thousands of dollars per year.

However, much of the costs were frivolous requests by Michael Addario for Street Artist's private information (such as Social Security Numbers, personal phone numbers and addresses, performance history etc) which are a blatant abuse of the Sunshine Ordinance.

Furthermore, the costs relating to the Sunshine Ordinance matters were NOT due to "defending the Program Manager fro violations of the Sunshine Ordinance," they were due to the cost of the City Attorney in advising the Arts Commission and the Program Director on furnishing documents (many of which required redaction of specific confidential details) to Sunshine requests and on advising the Program Director on preparation of Arts Commission responses to be delivered at Sunshine Task Force hearing.

F 29.

"The Street Artists depend on volunteer managers for the bulk of the on-site supervision and program operations."

I AGREE with the finding.

The Program depends on one volunteer manager, (elected by the artists), for the privilege of one (prime) space at Justin Herman Plaza. The Manager's duties include supervising lottery and coordinating with Rec. & Park Department to accommodate other events at the plaza. The main

Program operations of on-site inspection of the artists' wares and enforcement of the Street Artist Ordinance at the plaza (and other locations around the city) are administered by the Program staff.

F 31.

"There has been no current memorandum of understanding between SFSA and the Rec. & Park Department concerning the use of Justin Herman plaza since 1991."

I partially DISAGREE with the finding.

The definition of Memorandum Of Understanding (MOU) according to Wikipedia:

"It is often used in cases where parties either do not imply a legal commitment or in situations where the parties cannot create a legally enforceable agreement."

In a less stringent term, an MOU is like a 'gentleman's agreement' and in our case we were 'grandfathered' and since (before) 1991 we've been selling at the plaza with this understanding. The MOU is not, and was never a lease, and yet in its absence we've been selling for the past 21 years.

Currently at the plaza are three companies with a lease agreement: Park Wide (bicycle rental) with seven day access, the 49ers trailer shop (Monday to Friday) and Alicia's food cart, which operate about 4 or 5 days a week. However, in their contract, they must vacate the plaza to another event, such as the Canon Project Imagination, that rented the Loading zone for Monday, September 24. As a result the 49ers shop got bumped off.

The same situation will happen to all groups using the plaza, say for example if the America's Cup rented the plaza. In other words, we're given the same treatment as our co-tenants who are paying clients of Rec. & Park, even (with or) without an MOU or rental agreement of our own. Having an MOU with Rec. & Park does not preclude other events from renting the plaza – we did not have exclusivity to the plaza since 1991 or prior.

F 32.

"A Street Artist has never served as a Commissioner for SFAC."

I AGREE with the finding.

F 33.

"Selling spaces have declined from 433 in 2008 to 375 – 380 spaces currently."

I partially DISAGREE with the finding.

Since 2008, the number of spaces at the plaza have increased by about 30 (BART 9, 10, 11, 12, 13, 14, 15, 16, 17, CAFÉ 109, 108, 107, 106, 105, 104, 103, 102, 101, LOADING ZONE 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and Spaces 21 A & 21 B.). We lost space 13 A, but gained Space 11 A.

While the total number of spaces decreased in other locations, the plaza artists progressively worked with the Arts Commission and neighboring businesses to add selling spaces.

Some spaces, such as the ones in the Castro are underutilized to the point where the Castro neighborhood is thinking of availing it to another group.

RECOMMENDATIONS

R 17.

"Move the Street Artists Program to the Office of Small Business"

This Recommendation will not be implemented because it is not warranted or reasonable. Here's a quote from the Clark Brothers:

" ... the present Street Artist Ordinance was a Charter amendment approved by the voters as Proposition "L' on the November 5, 1975 Municipal Ballot.

Proposition "L" did not contain any language giving the Board of Supervisors the authority to amend the Ordinance.

Therefore, Proposition "L" cannot be amended except by a vote of the people.

After the passage of Proposition "L", it was codified into the San Francisco Police Code as Section 2400 of Article 24.

All of the provisions of Article 24 may be amended by the Board of Supervisors except for Section 2400.

Section 2400 (Proposition "L") designates the Arts Commission as the City department responsible for administering the Street Artist Program and issuing Street Artist Certificates.

In order to transfer that responsibility to any other City department including the Office of Small Business, it would require a ballot measure to be placed on the San Francisco Municipal Ballot and be approved by the voters."

R. 20.

"Appoint a current or former Street Artists to whichever Commission oversees them."

The recommendation requires further analyses. A Street Artist may serve on the full Arts Commission, but not on the advisory board, to avoid conflict of interest.

R 21.

"Develop new spaces for the Street Artists."

At Justin Herman Plaza, this recommendation has been implemented and will continue to look at adding new spaces. This can only be achieved by working in a friendly and cohesive relationship with our neighbors – the Hyatt Hotel, Boston Properties, Noah's Bagels, the bike rental company, Rec. & Park, the Ferry Building, One Market, SF Port Authority etc, etc. Our neighbors value our presence at the plaza, especially as recently as Tuesday, September 18, 2012, when they saw Street Artists chase the encampment from the bocce courts back to the Federal Reserve building.