

MANAGING RISKS OF PUBLIC ART ACQUISITION

Public Art Is Municipal Infrastructure

A renewed interest in public art by the municipal sector has led to a steep learning curve for both artists and bureaucrats.

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It is interesting to watch bureaucracy and the creative arts community struggle to understand, and work with, each other's decidedly different approaches to project management. Most artists work independently, or in small groups to develop concepts, designs, plan, build and install, their works. Municipal workers are accustomed purchasing acquisitions through an established, proscribed, step-by-step process that must be followed to ensure transparency, and fair treatment; few, if any, deviations are permitted.

An example of the parties who offer guidance, and to possibly involve is revealed in a quick look at the range of departments who deal with public art in Ontario: Ministry of Tourism and Culture, Trillium Foundation (grants funds), Agriculture, Food and Rural Affairs, Municipal Affairs and Housing, Economic Development and Trade. Plus, the non-profit Creative City Network of Canada.

Ultimately, though, municipal risk managers return to evaluating typical risks that apply to many infrastructure projects. Keep in mind that often risks overlap or are inter-twined. Typically, they are:

- Financial risk
- Liability risk
- Reputational risk

In every project using the basic risk management process will help even novices to identify and mitigate the risks. I am keeping this list at a high level, no doubt you can think of more than I have listed. Some potential mitigation strategies are listed below. Keep in mind that it is important to not 'over think' the number and extent of each risk. If you have to work really hard at identifying and quantifying each risk – you may be trying too hard!

A FEW MITIGATION MEASURES:

- Financial, and Liability risk

- Work with legal advisors to draft a ‘template’ so that key sections of each contract will protect the municipality from inadvertent deviations that:
 - May appear to favour some artists over others,
 - Ensure final pricing, payment schedules, responsibility for over-run costs, responsibly for removal of temporary installation, and so on, are clearly stated,
 - Detailed scoping of the staging and requirements for major public art construction is required in order to mitigate financial risk.
 - Expected cost of maintenance over the long-term.
 - Authority for removal or de-acquisition of works.
- Use hold harmless, indemnity and insurance clauses to transfer financial, contractual and liability costs of risk, to the extent possible, to the artist.
- With any project that requires physical installation of a long-term or permanent infrastructure, consider the following:
 - Geo technical issues – foundation stability, possibility of contaminated soil, etc.
 - Community cultural sensitivities related to appropriateness, final design, etc.
 - When placement is near sidewalks or intersections, ensure installation will not block sight lines
- **Reputational risk**
 - Utilize, as much as possible, the approved purchasing by-law to ensure a professional, transparent process,
 - Document each step of the process from identifying stakeholders, to call for concepts and up to installation and final payment, and
 - Engage the cultural community (and citizens when necessary) for specific projects.
 - In every case, and on-going if needed, promote public understanding and respect for the municipality’s processes and recognize that the subjective view of the final work may be very different from what was expected.

SUMMARY

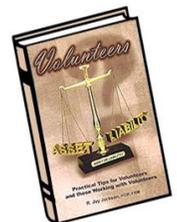
In the end, there are more similarities to traditional municipal purchasing processes than differences. A keen eye to those differences will increase your odds of successfully acquiring your next work of public art. To require a checklist for public art acquisition risks, email: joy@cunnart.com

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