



MURAL ART REGISTRATION APPLICATION

Development Services Department

Mural Art Program

City of Hayward
777 B Street, Hayward, CA 94541 Phone:
(510) 583-4306; (510) 583-4234
Email: Kristoffer.Bondoc@hayward-ca.gov
Franchesca.Hatfield@hayward-ca.gov

Individuals or organizations sponsoring, promoting and/or engaging in mural art installation on private owned property shall first register with the City Of Hayward pursuant to Hayward Municipal Code SEC. 10-7.300(a).16 - Original Art Murals. Under this Code, an Original Art Mural is defined as a "one-of-a-kind, hand-painted, hand-tiled, spray painted, digitally printed image or similar on the exterior wall of a building that does not contain any commercial message and is not part of the City's Mural Program. For definition purposes, a commercial message is any message that advertises a business conducted, services rendered, or goods produced or sold. All Original Art Murals are exempt from obtaining a Sign Permit, but must be approved and registered with the City's Mural Program." **Please complete this form and submit with the Original Art Mural registration fee of \$50.00 at least two weeks prior to mural art installation.**

APPLICANT & PROPERTY OWNER INFORMATION:

PROPERTY CLASSIFICATION: Commercial Industrial Residential

APPLICANT: _____

PROPERTY OWNER: _____

MURAL ARTIST: _____

BUSINESS NAME (IF APPLICABLE): _____

CITY: _____ STATE: _____ ZIP: _____ PHONE: _____

FAX: _____ E-MAIL: _____ CELL PHONE: _____

ART INSTALLATION ADDRESS: _____

DETAILED ART DESCRIPTION:

Is the property owner proposing to advertise business name or product in the art mural? *Yes No

* If yes, please apply for Sign Permit online at <http://user.govoutreach.com/hayward/faq.php?cid=11058> or contact (510) 583-4000, option 4 (Permit Center) to request assistance from a Planner.

The following steps must be completed prior to mural art installation:

- STEP 1 - Applicant submits registration application, \$50 fee, legible color copy of mural art (min. size. 8½x 11), dimensions of the art piece, location of art on property, and installation timeline (start and end dates). Please call Franchesca Hatfield at (510) 583-4234 or Kristoffer Bondoc at (510) 583-4306 to schedule an appointment.
- STEP 2 - The property owner must review the Visual Artists Rights Act of 1990 (VARA) and sign the VARA acknowledgement below.
- STEP 3 - Mural art plan is reviewed by the Director of Development Services and the City Manager or designees.

VARA ACKNOWLEDGEMENT STATEMENT:

I, (property owner) _____ of the designated art installation address contained herein have received a copy of VARA, read, and understand the Visual Artist Rights Act of 1990 (VARA).

Signature: _____

If you have questions regarding the registration application process, please contact Franchesca Hatfield at (510) 583-4234 or via email at Franchesca.Hatfield@hayward-ca.gov or Kristoffer Bondoc at (510) 583-4306 or via email at Kristoffer.Bondoc@hayward-ca.gov

CITY STAFF USE ONLY:

PAYMENT VALIDATION

Charge Code: 020103 - Mural Art Program

Application #: _____

Received By: _____ Date Received: _____

Comments or conditions of approval on reverse side

**CITY OF HAYWARD
MURAL ART REGISTRATION APPLICATION**

Approved:

Conditional Approval:
(see below)

Denied:

1.

2.

3.

4.

5.

Notes:

X _____ Date: _____

Jennifer Ott, Acting Director of Development Services

X _____ Date: _____

Kelly McAdoo, City Manager

The Visual Artists Rights Act of 1990

Philadelphia Volunteer Lawyers for the Arts
A program of the Arts & Business Council of Greater Philadelphia



200 S. Broad Street, Suite 700
Philadelphia, PA 19102

Phone: 215.790.3836, ext. 1
Fax: 215.790.3888

PVLALegal@artsandbusinessphila.org
www.artsandbusinessphila.org/pvla

The Visual Artists Rights Act of 1990

By Sharon Forscher

Copyright Philadelphia Volunteer Lawyers for the Arts 2008

The Visual Artists Rights Act (VARA) protects an artist's moral rights regarding his or her artwork- the right to correct attribution and the right of artistic integrity. These rights are separate from ownership of the work itself and from the copyright to the work, which includes the right to reproduce, broadcast, display and/or perform the work in public. Copyrights are a bundle of rights that can be sold or licensed to different individuals or corporations. Each of these rights can be owned by different people at the same time. An artist's moral rights under VARA can be waived, but unlike title and copyright, cannot be sold or transferred to anyone else- once the artist gives them up, moral rights to the artwork no longer exist.

Which Works Qualify for VARA Protection?

Congress limited the reach of VARA to "visual art" that is meant for public display and not publication, advertising, or any utilitarian purpose. Visual art is defined as:

- A painting, drawing, print, sculpture, or a photograph produced only for exhibition purposes (not a personal album)
- The work must exist in one copy or in a limited edition of no more than 200 copies which are consecutively numbered and signed by the artist

What are the time limits for VARA protection?

- A work of art created on or after June 1, 1990 receives full protection for as long as the artist (or last surviving artist, if it's a collaboration) lives
- A work of art created before June 1, 1990 is only protected if the artist still has the title to the work and the acts that modified the work occurred after June 1, 1990. These protections, however, will last for 50 years beyond the death of the artist.

What Does Not Qualify for VARA Protection?

- Any type of art not named above- movies, books, periodicals, maps, advertising materials, etc.
- Any work for hire, which is:
 - Art you make for your employer as part of your job (not as an independent contractor)
 - Art you contribute to a collective work, such as a textbook, if you sign a contract beforehand expressly saying that the art will be considered work made for hire.

What Rights Does VARA Protect?

- Attribution
 - The right to claim authorship of work you created
 - The right to prevent your name from being attached to art you did not create
 - The right to prevent your own work from being attributed to you if the work has been modified in a way that damages your honor or reputation
- Integrity
 - The right to prevent any intentional modification of your work which would damage your honor or reputation
 - The right to prevent any intentional or grossly negligent destruction of your work if it is of "recognized stature"— that is, if the arts community or a segment of the public thinks the work is significant. This does not include damage that occurs due to the passage of time, non-negligent restoration work, or the inherent nature of the work.

The Visual Artists Rights Act of 1990

Waiving Your Rights

If you want, you can give up your VARA rights by signing a document that specifically states the identity of the artwork and which rights you are giving up. If a work was created by more than one artist, they will all lose their VARA rights if one of them decides to waive those rights.

Works Integrated Into Buildings

Works such as murals which are a part of a building have their own specialized set of VARA rules.

- If a work cannot be removed from a building without being modified or damaged, AND:
 - You consented to the installation of the work before June 1, 1990 OR
 - Signed a contract along with the owner of the building after June 1, 1990, acknowledging that the removal of the work may damage it
 - Then you have no VARA rights
- If a work can be removed from a building without being modified or damaged, then you still have your VARA rights unless the building owner makes a diligent, good faith attempt to notify you of the removal in writing within 90 days of the removal. If you then remove the work at your own expense, you will have the title to the work as well as the moral rights.

Filing Suit

You do not have to register a copyright or make some registration of your moral rights in order to file a lawsuit under VARA. However, the remedies you can receive are the same as with copyright, with the exception of criminal penalties, which are not available under VARA. The remedies you can receive are:

- Monetary remedies
 - Actual damages to you and the profits of the violator which result from the infringement, OR

- Statutory damages of \$750-\$30,000 per work, at the court's discretion
 - These damages can be increased to as much as \$150,000 if you can prove that the VARA violation was done with knowledge that it was a violation.
 - But if the violator can prove she did not know or have reason to know a violation was being committed, damages can be reduced to as little as \$200.
 - In order to choose to receive statutory damages rather than actual damages, you must request the change before judgment is rendered
- Attorney and court costs, if the court allows it
- Other remedies
 - A court order to impound and/or destroy any offending copies of the work
 - An injunction to prevent the VARA violation

Any More Questions?

If you still have questions about VARA and the rights it gives to visual artists, please contact:

Philadelphia Volunteer Lawyers for the Arts

200 South Broad Street, Suite 700

Philadelphia, PA 19102

Phone: 215-790-3836 ext. 1.

Fax: 215-790-3888

PVLAlegal@artsandbusinessphila.org

For more information on copyrights, you can refer to:

PVLA Resources Page

<http://www.artsandbusinessphila.org/pvla/pvlaresources.asp>

United States Copyright Office

<http://www.copyright.gov/>

Other titles in this series:

- Fair Use Guide
- An Artist's Guide to Wills and Estates
- Finding a Live/Work Space for Artists
- Censorship, Obscenity, and Indecency
- Guide to Licensing Stock Photography
- Documentaries — A Sample Release Form
- Intellectual Property — An Artist's Primer
- Transformative Works and Copyright for Visual Artists
- Music Licensing
- Nonprofit Incorporation
- Music Performing Rights Organizations
- Music Publishing — A Sample Contract between Composer and Publisher
- The Right to Publicity
- Parody and Satire
- A User-Friendly Guide to Copyright
- Financing your Film Project
- "The Naked Cowboy v. M&M" — An Explanation of Trademark Infringement
- The Visual Artists Rights Act of 1990
- Privacy and Photography
- Invasion of Privacy