

NATIONAL

Apology by City on Art

This article is from the archive of The New York Sun before the launch of its new website in 2022. The Sun has neither altered nor updated such articles but will seek to correct any errors, mis-categorizations or other problems introduced during transfer.



JOSEPH GOLDSTEIN
Wednesday, June 6, 2007
10:04:26 pm



The city is backing down from a court battle that would have tested its authority to block offensive artwork from being displayed on public property.

In apologizing yesterday for shuttering a sexually explicit art show that was briefly on display in a Brooklyn war memorial last year, the Bloomberg administration is pursuing a more conciliatory path when accused of censorship than had the previous administration. Mayor Giuliani was rebuked in federal court after trying to prevent taxpayer funds from subsidizing the Brooklyn Museum of Art's display of the Virgin Mary on a canvas decorated with elephant dung and images of women's crotches.

The city yesterday avoided risking a similar chastisement from a federal judge by promising to pay \$750 to each of the 18 art students and a professor who had participated in an exhibit the city closed last year at the Brooklyn War Memorial at Cadman Plaza. The payments and an apology settle a First Amendment lawsuit brought by the students, charging city officials with censorship.

The exhibit, put on by master's degree candidates at Brooklyn College, included a sculpture of a penis and a separate piece containing a written narrative describing a sexual encounter with a man named Dick Cheney. One day after the display opened in May 2006, the Brooklyn parks commissioner, Julius Spiegel, locked the doors to the War Memorial, which Brooklyn College students had used as an exhibit space. College officials subsequently removed the artwork, damaging several of the pieces.

At the time, a parks department spokesman said the decision to shut the exhibit was made because the art was not "appropriate for families."

In a statement recently filed at U.S. District Court in Brooklyn, Mr. Spiegel wrote that his decision to shut the doors had set "in motion actions that led to the damage of Plaintiff's artwork, which a reviewing court might find constituted a violation of the student-exhibitors' First Amendment rights."

"Whatever the outcome in court might have been, I apologize to the Brooklyn College art students," he said.

Mayor Giuliani's loss in court nearly eight years ago likely influenced the city officials who decided to settle the lawsuit by the students.

"I suppose the Brooklyn museum case suggested that if they hadn't settled, they would indeed have lost," a law professor at New York University, Amy Adler, said.

Ms. Adler, whose area of expertise is art law and censorship, noted that several questions of law remain unanswered concerning the limits, if any, the city can

place on the content of an exhibition.

For instance, Ms. Adler, said there was no decisive court precedent that said whether the city could have a blanket policy stating "we are only going to display work that is non-sexual."

The city has no policy for examining the content of artwork before it issues permits for city spaces.

When the Parks Department granted the permit for last year's exhibit, the city was not familiar with any of the individual pieces, a lawyer for the plaintiffs, Norman Siegel, said.

A city lawyer, Jonathan Pines, said, in a statement sent via e-mail, "we are glad this case has been resolved to the satisfaction of all parties." The city declined to comment further.

One artist whose work was included in the exhibit, Marni Kotak, said: "This will never happen to any other art students in the city— that is all we can hope for."

Mr. Siegel said the letter of apology from Mr. Spiegel could "create a government consciousness not to do this again."

"I believe the lesson is that the government is not the appropriate body to judge the value of art," Mr. Siegel said.

The city will also pay \$42,500 in legal fees to Mr. Siegel and his co-counsels to the case, driving the total price of the settlement for the city up to \$56,750.

A spokesman for Brooklyn College, which was originally named in the lawsuit and later dropped from it, declined to comment. After removing the artwork from the War Memorial, Brooklyn College kept the pieces locked up for more than a week, one of the artists, Zoe Cohen, said. Eventually, the College helped organize a second exhibit for the works at a space in DUMBO.

"I've forgiven them," the artist who created the sculpture of the penis, Augusto Marin, said of those who removed the artwork.



JOSEPH GOLDSTEIN
