THE LEONARD & BINA ELLEN ART GALLERY ACQUISITION POLICY

Effective Date: November 16, 2010

Originating Office: Office of the Vice-President, Research & Graduate Studies

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PREAMBLE

The Leonard & Bina Ellen Art Gallery (the "Gallery") is part of Concordia University (the "University") and is dedicated to the research, dissemination and critical examination of Canadian and international contemporary art. As part of its programming, it presents exhibitions, provides various educational programs and produces publications. Responsibility for all tasks related to the management, exhibition, research and conservation of the Gallery's art collection is also part of its mandate.

Current Collection

Between 1962 and 2003, more than 1800 works were acquired by the Gallery on behalf of the University. This collection is heterogeneous. It is composed of historical, modern, contemporary and ethnographic works[1] that fall under the rubric of Fine Art. These works were created primarily by 20th century Canadian artists and more specifically, in the 1960s and 1970s. The collection also contains several works of decorative art. Gifts comprise 80% of the Collection.

PURPOSE

In accordance with its mandate, and in keeping with its human, financial and material resources, the Gallery acquires works of art and views collecting as a complement to the activities that constitute its main public interest focus, namely the programming of exhibitions and art-related activities. This Policy has been formulated to facilitate the coherent development of the Gallery's collection in compliance with the applicable rules of ethics, museological standards, and provincial, federal and international laws pertaining to cultural property.

In 1982, the Gallery received Category A designation from the Canadian Cultural Property Export Review Board ("CCPERB"), thus conferring on it the appropriate status to accept Gifts that may be certified as cultural property.

[1] All ethnographic works are categorized and named according to their origins (e.g., Pre-Colombian, African, Roman).

SCOPE

This Policy has been developed to rigorously frame the orientation of the content of Concordia University's art collection in relation to the Gallery's mandate and its programming. It must be fully adapted to the Gallery's activities and ensure that the acquisition process respects the professional standards prevailing in today's museums environment. The professional staff of the Gallery is conscious that these practices may need to be re-assessed from time to time and policies and procedures consequently adjusted.

This Policy has been formulated to guide the Acquisition Committee in its rigorous development of the Gallery's collection. The objective underlying this Policy is to complement the Gallery's programming by adding significant works[2] to its collection. Its defining principles reflect the mandate of the Gallery which is dedicated to the research, dissemination and critical examination of Canadian and international contemporary art.

DEFINITIONS

The following definitions, formulated in accordance with the standards issued by the International Council of Museums ("ICOM"), the United Nations Educational, Scientific and Cultural Organization ("UNESCO"), the Canadian Museums Association ("CMA") and various other sources, are intended to facilitate comprehension of the terms used in this Policy.

Acquisition means obtaining of ownership of a work of art and all rights whatsoever related thereto by purchase, gift, bequest or exchange.

Bequest means a gift of property by testamentary disposition.

Collection means a group of natural or cultural (i.e. man-made) objects and intellectual property directly owned by the Gallery, as a public trust, and registered as part of its permanent Collection, to be used for the exclusive purposes of preservation, research and presentation to the public.

Cultural Property means property that is designated by a government, domestic or foreign, as being of national importance for archaeology, prehistory, history, literature, art or science.

Deaccession means the removal by the Gallery of a work from its Collection.

Donation means a contract whereby a donor effectively and irrevocably divests himself/herself

[2] Quality is always to be favored over quantity in considering works that are proposed for acquisition.

of the ownership of an object by giving it to the donee, who accepts the Donation.

Exchange means a contract whereby the parties thereto transfer ownership of certain property other than a sum of money to each other respectively.

Gift means a voluntary transfer of money or physical property carrying with it no rights, privileges, benefits or advantages for the donor nor any obligation for the transfer of results. For the purposes of this Policy, a Gift is for the benefit of the Gallery.

Loan means the contract whereby a person or institution temporarily transfers the physical possession of property to another person or institution, for its use, for a definite period.

Purchase means the Acquisition of a work in exchange for a sum of money.

Transfer means the instrument pursuant to which a person or institution transfers a right, obligation or responsibility to another person or institution.

POLICY

1. The Gallery is the only area of the University with the requisite skills and authority to care for and exhibit the works in its Collection, and to acquire new works of art for integration in that Collection.

2. The Gallery and the vault specifically designed to conserve the works in the Collection are located in a space provided by the University, which also provides various professional services and routine maintenance of that space.

3. The Gallery also exhibits works from its Collection within the University and externally in accordance with a guidelines and procedures established by the Gallery ("Procedures").

4. In accordance with the University's *Policy on Gift Acceptance and Receipting* (VPDER-1), the Office of the Vice-President Development and External Relations shall issue an official charitable tax receipt in compliance with the *Income Tax Act* upon the Gallery's written confirmation of the Acquisition of a work by way of a Gift.

5. Every five (5) years, the Director of the Gallery, in consultation with its Advisory Council and the Vice-President, Research & Graduate Studies shall review this Policy and may recommend revisions to the Vice-President, Research & Graduate Studies.

Collection Area

6. Given that the Gallery's Acquisition activities go hand-in-hand with its mandate, its primary focus is on artistic works that address current issues related to its programming and that are likely to be of interest for generations to come as well as be the basis for research activities at the Gallery. The Acquisitions in this area are of works produced within the last ten (10) years that meet the selection criteria set forth in Section 18 below.

   A secondary focus are the gaps in the Gallery's Collection of contemporary works (1968 to present) and modern works (1939-1968), but always with a view to maintaining coherence in its developing Collection. On the one hand, it targets significant works by artists who have significance for the history of Québec and Canadian art and who are not represented in the Collection. On the other hand, it seeks to acquire designated important works by major artists in the Collection that will significantly enhance their representation in the Collection. Works considered by the Gallery in this secondary area are selected in accordance with the criteria set forth in Section 18 below.

   It should be noted that the Gallery is not mandated to acquire decorative art or historical and ethnographical bodies of work.

Acquisitions

7. There are two (2) modes of Acquisition for adding a work to the Collection: (i) by Gift and (ii) by Purchase. Regardless of the mode of Acquisition, all Acquisitions are considered on the basis of the same criteria and with the same thoroughness.

8. Acquisition proposals are submitted to the Gallery's Curator (or Director), who is mandated to assess the admissibility of the proposals and to determine which will be considered for Acquisition. The Acquisition process shall be conducted according to the Procedures and begins when the Curator (or Director in his/her absence) prepares an Acquisition document for submission to the Acquisition Committee.

9. Gifts - The Gallery is involved in soliciting Gifts consistent with its Collection area and its mandate. It will consider unsolicited offers of Gifts but only in as much as they correspond to its collecting focus and respect its Acquisition criteria.

   9.1 A transfer of ownership by way of Gift must be formalized in a written document.

9.2 Donors whose Gift proposals are accepted by the Acquisition Committee in accordance with Section 22 are issued a tax receipt in accordance with the University's *Policy on Gift Acceptance and Receipting* (VPDER-1).

9.3 Works donated to the Gallery may be the subject of a Cultural Property certification application to the CCPERB. Should the Gallery's Curator (or Director) choose to apply for such certification, in his/her sole discretion, the application to the CCPERB shall be prepared by the Gallery.

9.4 On an annual basis, the Gallery shall inform the Office of the Vice-President Research & Graduate Studies and the Gallery's Advisory Council of all Gifts that have been accepted, if any.

10. Purchases - Once approved by the Acquisition Committee, a Purchase shall be made in accordance with the budget allocated to Gallery Acquisitions.

10.1 On an annual basis, the Gallery shall inform the Office of the Vice-President Research & Graduate Studies and the Gallery's Advisory Council of all approved Purchases of works, if any.

Deaccession

11. Deaccession is an exceptional measure that must be taken in compliance with the relevant rules of ethics, museological standards, and relevant legislation. It is a measure of last resort and must be authorized by the Gallery's Director. Deaccession can take place by way of donation to a third party, return to the rightful owner (Transfer), Exchange with another institution, sale or destruction.

12. All works acquired by the Gallery are added to the Collection on a permanent basis and a long-term Loan to another institution is always favored over Deaccession.

13. The deaccessioning of a work by way of Donation or Exchange is conditional upon identification of a new conservation location for the work concerned. The new location must be suitable regarding the conservation and disseminating of the work in question. The deaccessioning of a work must be based on criteria set forth in this Policy.

14. Deaccessioning may be considered only in one or more of the following cases:

14.1 the state of conservation of the work is so deteriorated that it is irretrievable or unusable

14.2 the Gallery can no longer guarantee conservation of the work

14.3 there is duplication of the work or of its relevance in the Collection

14.4 its relevance is seriously questioned within the Collection

14.5 there is doubt regarding the authenticity and ownership of the work.

15. Deaccessioning a work must be made with the full knowledge of the value of the work concerned. In addition, when Deaccessioning Donated works, the Gallery and the Acquisition Committee must bear in mind the legal as well as public perception consequences of such a decision given its role as an institution that houses a public collection.

16. All revenues from Deaccession are applied to the Gallery's Acquisition Fund.

17. Deaccession of a work must be made in compliance with the relevant Procedures.

Selection Criteria

18. The Gallery and the Acquisition Committee consider all Acquisitions on the basis of the seven (7) selection criteria set forth below, independently of the Collection area to which they relate:

18.1 recognition of the artist pursuant to the *Act respecting the Professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters, R.S.Q., chapter S-32.01*

18.2 priority given to Québec or Canadian artists

18.3 current relevance to the Collection in light of the Gallery's programming

18.4 cultural significance of the work for art history

18.5 the physical state and conservation requirements of the work

18.6 conditions relating to its Acquisition

18.7 the potential use of the Acquisition and the Gallery's programming objectives.

Acquisition Committee

19. The Acquisition Committee is chaired by the Director of the Gallery. With the exception of the Director and the Curator of the Gallery who are permanent members of the Acquisition Committee, all other members are selected by the Director of the Gallery in consultation with the Vice-President Research & Graduate Studies and sit on the Acquisition Committee for a term of three (3) years with the possibility of a one-year renewal.

20. The Curator is responsible for presenting Acquisition matters to the Committee.

21. The Acquisition Committee meets at least once a year. A Committee meeting requires the presence of all members of the Committee. Each Acquisition Committee meeting is minuted.

22. The mandate of the Acquisition Committee is to consider and decide on the Acquisition proposals presented to it in accordance with this Policy. The Committee's decision to accept or refuse an Acquisition proposal is based on written proposals and requires a majority vote.

23. Under no circumstance shall any member of the Acquisition Committee personally gain any advantage or cause any third party to gain any advantage whatsoever from any Acquisition made by the Gallery.

24. No member of the Acquisition Committee shall propose the Acquisition of a work belonging to that member or to any member of his/her family or immediate circle of acquaintances.

25. The Acquisition Committee shall respect a set of ethical rules that apply as a complement to the selection criteria detailed in Section 18 above. Before a work is recommended for Acquisition, its attribution, date, provenance (legal title and history) and condition must be verified.

26. In all stages of its work, the Acquisition Committee shall comply with all rules of ethics, museological standards, and provincial, federal international laws concerning museums and the works in their Collections.

Members of the Acquisition Committee

(i) The Director of the Leonard & Bina Ellen Art Gallery - Chairperson

(ii) The Max Stern Curator of the Leonard & Bina Ellen Art Gallery - Member responsible for presenting Acquisition proposals to the Acquisition Committee

(iii) A Concordia University professor in the Faculty of Fine Arts

(iv) An external contemporary art specialist

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Legal Framework (ethical and legislative)

Statuts et règlements de la Société des musées québécois / Le guide de déontologie muséale, Société des musées québécois, 1999.

CMA Ethical Guidelines, Canadian Museums Association, 1999.

ICOM Code of Ethics for Museums, International Council of Museums, 2006.

Code of Ethics and Guidance for Practice of the Canadian Association for Conservation of Cultural Property and of the Canadian Association of Professional Conservators, 3rd edition, published jointly by the Canadian Association for the Conservation of Cultural Property, Canadian Association of Professional Conservators, Ottawa, 2000.

Principal Provincial Statutes

- *Act respecting the Professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters, R.S.Q., chapter S-32.01*
- *Cultural Property Act, R.S.Q., chapter B-4*
- *Taxation Act, R.S.Q., chapter I-3*
- *Act respecting access to documents held by public bodies and the protection of personal information, R.S.Q., chapter A-2.1*

- *Décret concernant la politique d'intégration des arts à l'architecture et à l'environnement des bâtiments et des sites gouvernementaux et publics, 1996 G.O.Q. 2, 5177* [available in French only]

Principal Federal Statutes

- *Museums Act, R.S.C. 1990, c. 3, M-13.4*
- *Cultural Property Export and Import Act, R.S.C. 1985, c. C-51*
- *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.) I-3.3
- *Copyright Act, R.S.C. 1985, c. C-42*
- *Status of the Artist Act, SOR/99-191*

International Conventions

- *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* – UNESCO, Paris, 1970;
- *UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects* – Rome, 1995;
- *Convention Concerning the Protection of the World Cultural and Natural Heritage* – UN Paris, 1972;
- *Universal Copyright Convention* – adopted in Geneva in 1952, revised in Paris in 1995;
- *Berne Convention for the Protection of Literary and Artistic Works* – adopted in Berne in 1886, revised in Paris in 1971;

and all other relevant international conventions and accords to which Canada may be a signatory.