

**CULTURAL ARTS COMMITTEE  
CITY OF PALM DESERT  
STAFF REPORT**

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MEETING DATE: May 14, 2025

PREPARED BY: Erica Powell, Management Analyst

SUBJECT: REQUEST FOR DIRECTION TO RELOCATE OR DEACCESSION OF  
LILY PAD BENCH BY MICHAEL TODD

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**RECOMMENDATION:**

Provide direction to staff on the relocation or deaccession of *Lily Pad Bench* by Michael Todd.

**BACKGROUND/ANALYSIS:**

In 2004, as part of an initiative to replace standard concrete benches along El Paseo with artist-designed alternatives, the City issued a Request for Qualifications (RFQ) seeking public art bench designs. The call received 168 responses, of which 20 were selected for potential use. Ultimately, the Art in Public Places Commission (AIPP) sponsored the fabrication and installation of one bench: *Lily Pad Bench* by artist Michael Todd.

The piece was formally approved on May 19, 2004, purchased for \$10,000, and installed on February 10, 2005. The sculpture has remained in its original location at the corner of El Paseo and Sage Lane, directly in front of what is now Shake Shack. Constructed of a 1-inch-thick aluminum plate, the work features five circular “lily pad” forms, each 24 inches in diameter.

On April 6, 2025, City Code Enforcement received a complaint from a visitor who reported walking into the bench and sustaining a minor injury while navigating the sidewalk in the evening. The complainant noted that the pedestrian path had become more constrained due to the restaurant’s current outdoor seating configuration, making the bench more of an obstruction to foot traffic.

Given the bench’s age, condition, and evolving pedestrian use patterns along El Paseo, it may be appropriate to consider removing *Lily Pad Bench* from its current location. As such, Staff recommends relocating the artwork to the City’s new Community Park, where it would remain publicly accessible and integrated into a safer, more spacious environment. Staff is also open to other suggestions from Committee members, provided the new location is in the public right-of-way and not on private property.

Should the Committee determine that relocation is not feasible or appropriate, staff is also open to discussing deaccession of the piece in accordance with the City’s Public Art Deaccessioning Policy.

**FINANCIAL IMPACT:**

The bench was originally purchased for \$10,000 in 2004. A current appraisal or fair market value has not been established. Estimated costs associated with removal, transportation, and reinstallation—including site preparation and new signage—are not expected to exceed \$2,500.

Cultural Arts Committee

City of Palm Desert

(Request for Direction to Relocate or Deaccession of *Lily Pad* Bench by Michael Todd)

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**ATTACHMENTS:**

1. Deaccession Policy
2. Deaccession Worksheet
3. Current photographs

# City of Palm Desert's Public Art Deaccessioning Policy

## DEFINITION

Deaccession means the formal process to permanently remove a City-owned public artwork by selling, donating, or destroying it.

## POLICY

- A. The purpose of the Public Art Deaccessioning Policy ("Policy") is to maintain a deaccession program that results in high-quality, City-owned public artwork; eliminate artworks that are unsafe, not repairable, or no longer meet the needs of the City, and respect the creative rights of artists.
- B. Although the City of Palm Desert would like each public artwork to remain in situ for a minimum of 15 years (although 15 years is not a limit on the life of an artwork), it recognizes that public artwork is not necessarily going to remain in place in perpetuity.
- C. Any proposal for removal, destruction, or relocation of an artwork shall be submitted to the Cultural Arts Committee by City staff and reviewed according to the policies and procedures contained herein and shall be deliberate and independent of political pressures, fluctuations in artistic taste, popularity, and public opinion.
- D. At regular intervals, the City's public artwork collection shall be evaluated by the Cultural Arts Committee to determine the condition of each artwork and determine whether any artwork should be deaccessioned.

## APPLICABLE ARTWORK

This Policy applies to all City-owned artwork acquired through the Public Art program or through donation. In the case of donated artwork, all legal documents surrounding the donation must be reviewed and a legal opinion rendered by the City Attorney before proceeding with the deaccessioning process.

## CRITERIA FOR DEACCESSIONING

One or more of the following criteria must apply prior to an artwork being deaccessioned:

1. Damage Beyond Repair - The artwork has been damaged and repair is unfeasible or repair costs would exceed the value of the artwork.
2. Safety - The artwork is deemed hazardous and a threat to public safety.
3. Deterioration - The artwork has deteriorated to the point that the restoration cost is greater than its monetary value or the artwork has deteriorated beyond the original design and restoration would prove impractical or would render the work essentially false.
4. Security - The condition or security of the artwork cannot be reasonably guaranteed or the City of Palm Desert cannot properly care for or store the artwork.
5. Site Alteration - In the case of site-specific artwork, the artwork has become inappropriate, is no longer accessible to the public, it is unsafe, or it is due to be destroyed and would severely alter its relationship to the site.

6. Excessive Maintenance - The artwork requires excessive or unreasonable maintenance.
7. Loss of Site – The current site is no longer available and no suitable alternate site for the artwork is available.
8. Aesthetic Value - The artwork is of poor quality or is judged to have little aesthetic and/or historical or cultural value.
9. Failure to Comply - If the approved terms of the contract pursuant to which the artwork was installed have not been fulfilled.
10. Inauthentic - The artwork is a forgery or in violation of existing copyright laws.
11. Theft – The artwork has been stolen. Any stolen artwork will be documented through an official police report and a report prepared by the entity that owns or is responsible for the site of loss.

### **SEQUENCE OF ACTION / PROCEDURES**

1. Deaccession requests may be submitted by a neighborhood organization, City department, independent City board or commission, or a City Council member. The Cultural Arts Committee will review each preliminary request. City staff will work with the applicant to bring a full proposal to the Cultural Arts Committee.
2. Staff will provide the applicant with a Deaccessioning Form that will serve as the applicant's formal request for consideration by the Cultural Arts Committee.
3. Staff (with assistance from the property owner, if applicable) will make reasonable effort to notify and consult with any living artist(s) whose work is being considered for deaccession as to the best procedure for artwork removal. The City will allow the artist(s) 30 days to respond.
4. If the artist(s) is/are deceased, the City will make reasonable efforts to contact artist(s) estate.
5. After an attempt to contact the artist(s) is made, staff will consult with the City Attorney on how to proceed with the deaccessioning.
6. Once the request is reviewed by the City Attorney, the applicant will complete and return the Deaccessioning Form.
7. City staff will use the information from the Deaccessioning Form to complete a staff report addressing the proposed removal of the artwork. The staff report will provide all available relevant information and materials to the Cultural Arts Committee, including, but not limited to:
  - a. Artist, Title, and Location of artwork.
  - b. Name of property owner and contact information.
  - c. Property owner at the time of commission or installation.
  - d. Year commissioned/purchased, original cost of artwork, and applicable Art in Public Places (AIPP) fee.
  - e. Dimensions and removal/re-installation instructions.
  - f. Appraisal of the artwork provided by a qualified art appraiser and current condition of artwork. If appropriate, current fair market value of the artwork.
  - g. Detailed reason for deaccessioning/relocating artwork.
  - h. Proposed deaccession method or new location for artwork (relocation, sale, donation, demolition, etc.).

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- i. Maintenance evaluation.
  - j. Any relevant images.
8. The staff report will then be placed on the Cultural Arts Committee agenda at a regularly scheduled public meeting, where it will be reviewed and voted on.
9. If the Cultural Arts Committee approves the deaccession, City staff will bring the staff report before the City Council for review and final action.
10. If deaccession is approved by the City Council, all documents will be updated to reflect the deaccessioning of the artwork. Staff will review property records from the County Recorder's Office and if an artwork covenant is recorded against the property, the City will cause a release covenant to be filed.
11. The deaccessioning process should be documented in both written and visual form.
12. If an artwork is sold, proceeds should be deposited into the Art in Public Places fund.
13. The City's Risk Manager must be notified so that the work can be removed from the City's insurance policy.

#### **DEACCESSIONING METHOD OPTIONS**

1. If appropriate, reasonable efforts will be made to move the work to a new location within the City. If the artwork was designed for a specific site, City will consider the artist's intent when deciding where to relocate the artwork.
2. The artist(s) will be given the first option to purchase or exchange the artwork. If the artist(s) decides to purchase the work, they will be responsible for the cost of the removal of the artwork from the current site. If the artist(s) is/are deceased, the legal heir(s) will have first rights of purchase. The artist(s) can purchase the artwork at fair market value according to the appraisals obtained by a qualified appraiser.
3. Put the work in storage until a new, appropriate location can be found.
4. Donate work to a school, an educational or non-profit organization.
5. Dispose of work in an appropriate manner.

#### **PROVISIONS FOR EMERGENCY REMOVAL**

In the event that the structural integrity or condition of an artwork is such that, in the opinion of the Public Art staff, the artwork presents an imminent threat to public safety, the City Manager may authorize its immediate removal without Cultural Arts Committee action or the artist's consent and have the work placed in temporary storage. The artist and the Cultural Arts Committee will be notified of this action within 30 days. The Committee will then consider options for disposition: repair, reinstallation, maintenance or deaccessioning. If the artwork cannot be removed without being altered, modified, or destroyed, and if the Artist's Agreement with the City and County has not waived his/her rights under the California Art Preservation Act and the Visual Artists Rights Act, City staff will attempt to gain such written permission before proceeding. In the event that this cannot be accomplished before action is required in order to protect the public health and safety, the City Manager shall proceed with the advice of the City Attorney.

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**COMPLIANCE WITH APPLICABLE POLICIES AND REGULATIONS**

Deaccession and removal of artwork will be done in a manner that complies with all other applicable city, state, and federal procedures, policies and regulations. For example, deaccession and removal actions must comply with applicable procedures and laws relating to the disposition of city property and with laws protecting artists' rights.

# City of Palm Desert Public Art Deaccessioning/Relocating Worksheet

Artist: Michael Todd

Title: Lily Pad Bench

Location of work: Sage/El Paseo (south west corner)

Name of property: City right-of-way

Contact name: Erica Powell

Phone: 760-776-6346 Email: epowell@palmdesert.gov

Property owner at the time of commission: City of Palm Desert

Year commissioned/purchased: 2004, CC approved 6/10/2004, installed 2/10/2005

Purchase Price / Art in Public Places fee / Value at time of install: \$10,000

Dimensions: Height: \_\_\_\_\_ Width: \_\_\_\_\_ Depth: \_\_\_\_\_ Weight: \_\_\_\_\_

*1 inch thick aluminum plate with 24" diameter circles*

Estimated current fair market value: unknown

Source of estimation: n/a

Proposed deaccession reviewed by City Attorney: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Detailed reason for deaccessioning artwork: Bench is located in front of new restaurant, Shake Shack. The pedestrian path has become more constrained, making the bench more of an obstruction to foot traffic. The City received a complaint from a visitor who reported walking into the bench and sustaining a minor injury.

Proposed deaccessioning method: Staff recommends relocating to the future north palm desert park and integrating into a shaded, environment.

New location for work (if it is being moved): North Palm Desert Community Park.

Condition: \_\_\_\_\_Excellent    XX\_\_\_Good    \_\_\_\_\_Fair    \_\_\_\_\_Poor

Maintenance evaluation and instructions:

Minimal maintenance due to the materials. This piece will be part of the Public Art maintenance schedule.





