

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of

NYC FREEDOM TRAIL FOUNDATION INC.,

Petitioner,

-against-

**AFFIDAVIT OF
KERI BUTLER IN
SUPPORT OF
RESPONDENT'S
CROSS-MOTION TO
DISMISS**

Index No. 150659/2022

PUBLIC DESIGN COMMISSION OF THE CITY OF
NEW YORK,

Respondent.

For a Judgment Under Article 78 of the CPLR.

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STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

KERI BUTLER, being duly sworn, deposes and says:

1. I am the Executive Director of the Public Design Commission of the City of New York ("PDC"), a position I have held since April 2021. As Executive Director, I am responsible for overseeing all agency initiatives and the design review process.

2. I submit this affidavit in support of Respondent PDC's Cross-Motion to Dismiss the Petition for lack of subject matter jurisdiction as the September 20, 2021 PDC resolution being challenged is not a final agency determination with regard to the artwork installation project by Kameelah Janan Rasheed, entitled *Questions Worth Having Answers To* located at Abolitionist Place in Downtown Brooklyn.

The PDC's Review and Approval Process for Art Installations

3. The PDC has a three-step review and approval process for artwork installation submissions: Conceptual Review, Preliminary Review, and Final Review. For each stage of the review process, the PDC provides a submission checklist that is intended as a guide to help artists and the submitting City agencies put together their submission packages.¹ These are not exhaustive lists, and not every item on the checklist may apply for every artwork, because the review process and requirements may vary in order to accommodate different types of artworks. The PDC considers each project on a case-by-case basis and takes into consideration the unique site, history, and artist's previous work and process.

4. Conceptual Review is the first stage of review and approval of artwork by the PDC and should occur early in the design process. At this stage of review, the PDC considers the artist's previous work and way of working and the general idea or ideas for the project. Depending on the specifics of the proposal, the Conceptual level submission may be more or less developed than what is included in the checklist. For example, a two-dimensional abstract mural might not require certain drawings and may not change much between Conceptual and Preliminary Review. In some cases, the PDC may give Conceptual Approval with conditions. The PDC may ask the artist to return with interim design developments or responses for committee review before Preliminary Review.

5. Once the artwork has been fully developed, it can proceed to the Preliminary Review stage. At this point, the PDC reviews the artwork submission, and if approval is granted, the artwork can be fabricated and installed at the selected location.

6. A public hearing is not required for every artwork submission reviewed by the PDC, but the PDC may, at its discretion, schedule a public hearing about a submission. If a public hearing is scheduled, it is generally held at the Preliminary Review stage.

¹ A brief description of these stages of review as well as the checklists can be found at the PDC website here: <https://www1.nyc.gov/site/designcommission/review/requirements/artwork-installation.page>.

7. Final Review and Approval by the PDC is based on the submission of photographs documenting the completed work and showing installation from at least three (3) different viewpoints, and the submission often includes additional information about the maintenance plan for the artwork.

Questions Worth Having Answers To by Kameelah Janan Rasheed at Abolitionist Place

8. In 2020, artist Kameelah Janan Rasheed (“Artist”) was chosen by a Percent for Art panel as the artist to create an artwork for Abolitionist Place, located in Downtown Brooklyn. The City’s Department of Cultural Affairs (“DCLA”) organized the panel per its standard, City Charter mandated Percent for Art program process, which included a qualified panel of subject-matter experts, community representatives, and City officials.

9. The panel participants included representatives from Council Member Stephen Levin’s Office, Community Board 2, Museum of Contemporary African Diasporan Art (“MoCADA”), Brooklyn Arts Council, Brooklyn Historical Society, Downtown Brooklyn Partnership, Weeksville Heritage Center, Irondale Theater Ensemble, Hargreaves Associates, and the City’s Economic Development Corporation (“EDC”). As per standard procedure, the Public Design Commission attended the panels in an advisory role.

10. EDC and DCLA submitted the Artist’s Conceptual proposal to the PDC in December 2020 for the January 19, 2021 PDC meeting cycle. The proposal featured engraved text throughout the open space as well as a free-standing plinth, inspired by the area’s abolitionist history. The Artist proposed to develop the content of the artwork through a series of engagements with the community as per the Artist’s usual working process.

11. Due to the high public interest in the overall project and unique nature of the art installation proposed by the Artist, the PDC decided to hold a public meeting while the artwork

was at the earlier Conceptual Review stage in order to provide members of the public the opportunity to give testimony on the project.

12. PDC staff considered the public hearing a good opportunity to allow the artist to present her ideas and inspiration for the project and the locations of artwork installations within the Abolitionist Place site, as well as her artistic process, which included developing the content of the text-based artwork with input from the community.

13. The public hearing for the Conceptual Review of Ms. Rasheed's artwork submission was held on January 19, 2021.

14. At the hearing, public testimony was heard from Todd Fine, Jacob Morris, Raul Rothblatt, Stacey Shub, Curtis Harris, Julie Finch, Mitty Owens, Shawné Lee, Beth Bugdaycay, Anthony Beck, Diana Ducroz, Victora Combranez, and Elizabeth Adams from Council Member Steven Levin's office.

15. During the hearing, most of the testimony focused on frustration with processes that were neither under the control of the Artist nor the PDC. Specifically, the public testimony focused on the following, none of which is under the PDC's purview: (1) the demolition of local buildings; (2) the In Pursuit of Freedom RFP; (3) a perceived lack of communication and community engagement by EDC; (4) renaming of the park; (5) support for a separate project entitled *Sisters in Freedom*; and (6) support for designating the adjacent property, 227 Duffield Street, as an historic landmark due to its ties to Brooklyn's abolitionist history.

16. There was limited testimony regarding the work or ideas presented by the Artist. This testimony focused mostly on how the submission was lacking in content and details despite the artist explaining how she intended to engage the community to develop the content of the text for the art installation. People expressed concern about referencing porches and installing words on the ground and benches where it would be walked or sat on, and requested that the content of the

work be specific to Brooklyn's abolitionist history and the local individuals who fought for abolition. The PDC expects the artist to take this content-specific feedback into consideration when developing the artwork.

17. At the January 19, 2021 public hearing, PDC members expressed support for the Artist, her text-based work, and her process for community engagement. Members noted that the work is a monument to a movement, not a specific person, and that movement continues. Members asked that the artist reconsider some of the locations, particularly the text on the ground, and consider how the work can have a more uplifted physical presence. The PDC tabled the submission so that the artist would have more of an opportunity to hear from the community and restudy the locations.

18. EDC and DCLA submitted a revised submission in September 2021 that responded to the PDC's comments by (1) identifying a location for a free-standing sculpture, (2) removing text from locations where people will be sitting or walking, and (3) providing a detailed plan and timeline for community engagement to develop the content for the artwork that would take place after Conceptual Approval.

19. Based on this revised plan, I placed the project on the consent agenda (which goes to vote before the PDC in a slate of approvals without further discussion) for Conceptual Approval.

20. My reasoning was as follows: (1) in January 2021, the PDC had expressed overall support for the artist, her work, and her process; (2) the revised plan was in response to the PDC's specific requests from January; (3) the artist still planned to conduct community engagement to develop the content of the artwork and had developed a detailed engagement plan and schedule in order to do so.

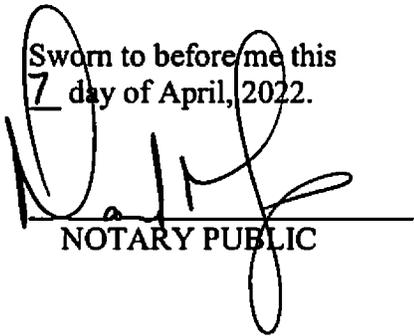
21. Additionally, given that the public testimony at the January 19, 2021 hearing related to the artwork itself focused on the artwork's lack of details and content, and the artist had not

yet initiated her community engagement plan to develop the content, I did not believe another public hearing would be productive.

22. The PDC is open to scheduling another public hearing on this submission after the artist has completed the planned community engagement and has developed the content of the artwork, which is anticipated to be done this summer.



KERI BUTLER

Sworn to before me this
7 day of April, 2022.


NOTARY PUBLIC

DONDRE STEVEN PERRY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01PE6368561
Qualified in New York County
My Commission Expires 12/18/2025