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**From:** Regina Mundekis  
**Sent:** Monday, February 24, 2020 12:28 PM  
**To:** Sandra Cervantes; Andreas Meyer  
**Cc:** Ashleigh Aitken Board (aaitken@ocfairboard.com); Barbara Bagneris; dlabelle@ocfairboard.com; npham@ocfairboard.com; rruiz@ocfairboard.com; Natalie Rubalcava-Garcia; Michele Richards; Josh Caplan  
**Subject:** Regarding Agenda Item 9D Black History Month Matters at February 27, 2020 32nd DAA Board Meeting

Dear Chair Cervantes and Board,

Please be aware that this email has been sent to Chair Cervantes, the entire 32nd DAA Board, CEO Michele Richards and Deputy Attorney General Josh Caplan. Please do not hit “reply all.”

During the February 27, 2020, meeting of the 32nd DAA Board, agenda item 9D regarding commemorations for Black History Month and the potential creation of a mural are agendized. This email concerns legal issues surrounding the creation of murals and original works of art. The 32nd DAA previously encountered problems regarding rights of artists with the Workers Memorial project which was collapsing and not structurally sound but could not be fixed or rebuilt without the permission of the artist. There are other ways of showing the diversity of Orange County other than creating a mural and the Board should consider those options.

Authors of works of visual art are accorded rights under both federal and state law (17 USC 106A and Cal. Civ. Code §980-989) which prevent alteration or destruction of works of visual art without the permission of the artist. Those rights allowed artist Kent Twitchell to win a federal settlement of \$1.1 million against the US government and other defendants for painting over a mural he created. (See [“Artist Kent Twitchell settles suit over disappearing mural”](#) and [“Twitchell Legal Victory Spotlights Artists Rights”](#))

For the new members of the Board, the Workers Memorial you see today is the second Workers Memorial. The first Workers Memorial was deemed as a work of art by the Board and constructed by the artist who did not use proper construction techniques. Prior to the end of construction, the structure started to collapse and work was halted. Fixing the safety problems created by the flawed construction was delayed for several years while issues regarding artists rights were negotiated. (See [“Fairgrounds memorial's troubles get first public airing from board”](#)) After the artist gave their permission, the structurally flawed art project was demolished and rebuilt by a licensed contractor at a cost of several hundred thousand dollars. (See [“\\$350,000 memorial for farm workers is open after renovation”](#))

A mural or similar works which are permanently affixed to structures can delay or even prevent changes needed for safety or maintenance. Other options which align with the 32nd DAA mission should be considered.

Please contact me if you have questions or need additional information.

Sincerely,

Reggie Mundekis