

**NATIONAL
COALITION
AGAINST
CENSORSHIP**

**ARTS
ADVOCACY
PROGRAM**

July 22, 2021

Travis Karlen, Director
Department of Parks, Recreation and Cultural Arts
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024

Dear Mr. Karlen:

As a coalition of organizations dedicated to the First Amendment right to free speech, including freedom of artistic expression, we were deeply concerned to learn that the City of Encinitas' Department of Parks, Recreation and Cultural Arts removed several works from an exhibition because of apparent discomfort with some of the content of those works. This act of censorship flies in the face of the city's First Amendment obligations. We strongly urge you to take steps to ensure that similar acts of censorship do not occur again in the future.

It is our understanding that the artist, Elena Karavodin, was selected by the city to produce a number of works for an exhibition in one of the hallways of a city building. We also understand that, shortly after the works were placed on public display, the city demanded that Ms. Karavodin remove several of the works, on the ground that they were, in the view of some public officials, "inappropriate" for children. The specific elements that were subjectively deemed "inappropriate" included, among other things, depictions of guns, depictions of smoking, the depiction of a woman in a low-cut dress, and the depiction of woman in a bikini under which the outline of a nipple could be discerned. In addition, the titles of a few works were deemed "inappropriate," including the title, "I did a bad thing..." on a work depicting a young person near a burning building.

Asking for the removal of Ms. Karavodin's work raises serious First Amendment concerns. Our courts have time and again reaffirmed that the First Amendment prohibits public officials from censoring art they find offensive or provocative. The case of *Hopper and Rupp v. City of Pasco*, 241 F.3d 1067 (2001) in the Ninth Circuit Court of Appeals is a case in point. The plaintiff artists were invited to display their work at City Hall and were then precluded from doing so because the work provoked controversy and public officials considered it "sexually suggestive." The Court noted that Pasco, by opening its display space to expressive activity evinced "an intent to create a designated public forum."

**NCAC PARTICIPATING
ORGANIZATIONS**

Actors' Equity Association
AICA-USA
American Association of
School Administrators
American Association of
University Professors
American Association of
University Women
American Booksellers for Free Expression
American Civil Liberties Union
American Ethical Union
American Federation of Teachers
American Jewish Committee
American Library Association
American Literary Translators Association
American Society of Journalists & Authors
Americans United for Separation of Church
& State
Association of American Publishers
Authors Guild
Catholics for Choice
Children's Literature Association
College Art Association
Comic Book Legal Defense Fund
The Creative Coalition
Directors Guild of America
The Dramatists Guild of America
Dramatists Legal Defense Fund
Educational Book & Media Association
First Amendment Lawyers Association
Free Speech Coalition
Freedom to Read Foundation
Global Alliance for Behavioral Health and
Social Justice
International Literacy Association
Lambda Legal
Modern Language Association
National Center for Science Education
National Communication Association
National Council for the Social Studies
National Council of the Churches
National Council of Jewish Women
National Council of Teachers of English
National Education Association
National Youth Rights Association
The NewsGuild-CWA
PEN America
People For the American Way
Planned Parenthood Federation
of America
Project Censored
SAG-AFTRA
Sexuality Information & Education Council
of the U.S.
Society of Children's Book Writers
& Illustrators
Student Press Law Center
Union for Reform Judaism
Union of Democratic Intellectuals
Unitarian Universalist Association
United Church of Christ
Office of Communication
United Methodist Church,
United Methodist Communications
Women's American ORT
Woodhull Sexual Freedom Alliance
Writers Guild of America, East
Writers Guild of America, West

In such a forum, the court concluded, the content-based removal of work would only be justifiable if there is a “compelling state interest and is narrowly drawn to achieve that end.” As a public space open to exhibiting artwork, city-owned spaces are ruled by the free speech clause in the First Amendment. This means that government officials cannot arbitrarily or systematically impose their prejudices on a curated exhibition, simply by labeling works “inappropriate.”

Suppressing everything that could potentially generate an objection would jeopardize the City’s entire art and culture program. No one is well served by this violation of expressive freedom, certainly not the Encinitas public, which is illegitimately deprived of the opportunity to view and evaluate artistic work for itself. This action opens the door to suppressing free speech in an arbitrary fashion, leaving decisions to the subjective opinions of city officials as to what is “appropriate” for children.

Ms. Karavodin’s works have now found another home. The City of Encinitas however, faces the decision of whether it wants to truly support the arts and display the diverse work of area artists in its public buildings or let the prejudices of a few public officials dominate what its citizens can see. We hope that the City will develop guidelines governing the display of artwork in government spaces, and that those guidelines will recognize the freedom of artists to express diverse views and affirm the rights of people in the community to see a wide range of artwork. We would be happy to work with you in developing those guidelines.

Sincerely yours,

A handwritten signature in black ink that reads "Chris Finan". The signature is written in a cursive, flowing style.

Christopher Finan
Executive Director
National Coalition Against Censorship

Cc: Pamela Antil, City Manager
Jennifer Campbell, Assistant City Manager
Jim Gilliam, Arts Program Manager.