
No. IV:

Regarding Property

A policy to amend Practice relating to Rights and Liabilities of actors within the artist-run sector in relation to Claims to Property.

[7th of September, 2019.]

I. PURPOSE

This policy was developed resultant from a preliminary conversation between artists Valentina Curandi and Isabelle Sully and the co-directors of the project space Marwan [Fokke Simonszstraat 12, 1017 TG, Amsterdam], Tirza Kater and Tim Mathijssen, on the occasion of the exhibition *Two In A Coffin*, September 7 – October 6, 2019. Upon the completion of an Occupational Health & Safety assessment on July 15, 2019, prior to the commencement of work and co-conducted by the artists, it became apparent that a policy regarding the protection of property within the practice of the artist-run space was in need of formalisation. Beginning from the industry-wide stipulation that Temporary Occupants must restore the Vacant Conditions of the exhibition space upon the completion of a project, the purpose of this policy is to therefore address what has been determined as the ‘limits of access to property’ through the implementation of a number of key clauses to current practices around personal entitlements and their physical protection thereof. The policy is thus written on behalf of both Temporary Occupants of the space and the Unprotected Stakeholders who run it.

II. SCOPE

In an attempt to protect the conditions of flexibility inherent to the artist-run sector, while at the same time understanding the limits they place on certain safety assurances and creative agencies, the scope of this policy begins by drawing a distinction between what has been discerned as two key elements of the structure of Marwan:

- I. The agenda of the ‘original project’, as devised by co-directors Tirza Kater and Tim Mathijsen, and as implemented on an ongoing basis in the form of an exhibition program; and
- II. The occupied space that is the Real Property of Marwan itself.

An understanding of the relationship between these structural elements and their implications for Temporary Occupants is illustrated in the figure below. Resultant from addressing these two elements of practice, it is intended that this policy directly impact upon the daily running of Marwan, as well as the liberties granted to Temporary Occupants and operatives working in relation to both these elements. In line with the direction of this scope, the policy will be distributed by Tirza Kater or Tim Mathijsen at what they discern to be relevant moments, with the instruction that any Temporary Occupants working within or on either of the two structural elements of Marwan effectively ‘sign on’.

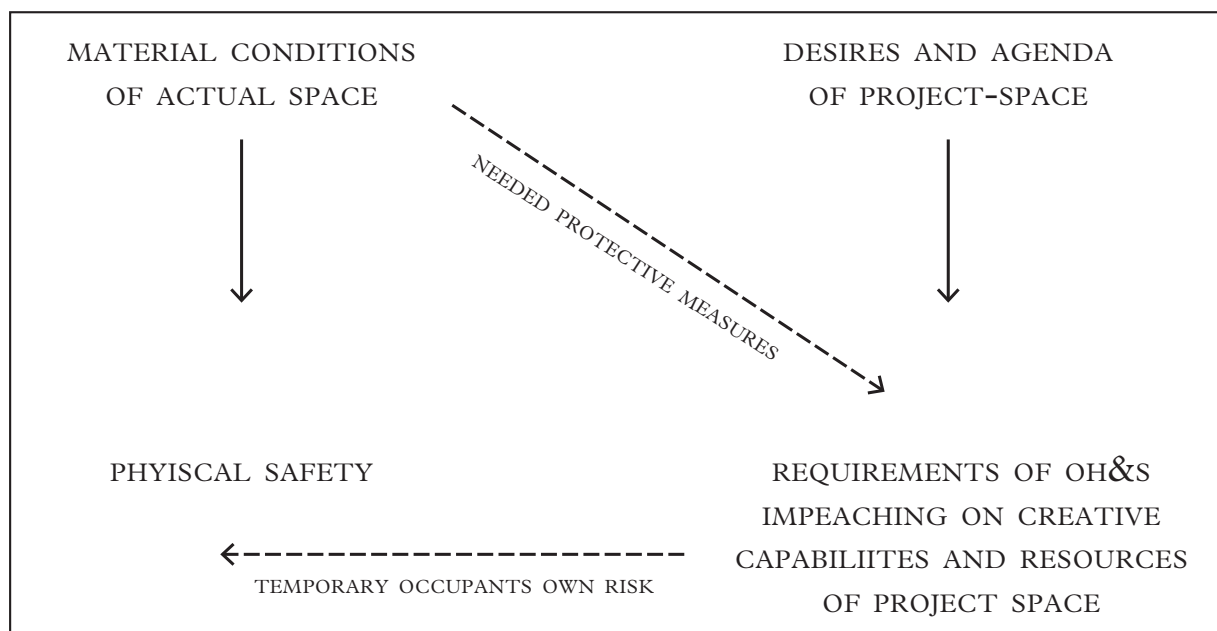


Figure 1. Limits of Access to Property

III. POLICY STATEMENT

The following policy clauses are written:

- A. In aid of the public security of Real Property
- B. In aid of the personal safety of the individual in relation to, and despite, the public security of Real Property

By demanding that:

1. OCCUPATIONAL HEALTH & SAFETY CLAUSE

Each Temporary Occupant(s) of the project space, in the sense that their legal name is publicly attached, must commit to the implementation of one Safety Measure in order to work towards ensuring the collective safety of the constituency of the project space.

- a. In the case of a Temporary Occupant expressing their desire to forgo this requirement, the Safety Measure must be implemented by Marwan on their behalf. As such, the Temporary Occupant furthermore forgoes the right to interpret ‘safety measure’ as they wish.
- b. The costs accrued from the implementation of the Safety Measure will be covered by the newly instated Annual Occupational Health & Safety Budget (AOHSB), which has been allocated by Valentina Curandi and Isabelle Sully upon the redistribution of project funds received by the Amsterdams Fonds voor de Kunst. A total annual budget of €250,00 as been instated by Curandi and Sully and is intended to cover the five exhibitions scheduled for 2020.
- c. Each Temporary Occupant will received a total of €50,00 for the implementation of the measure, with unused funds returning to the AOHSB.
- d. In the case of collaboration between Temporary Occupants, the budget is to remain capped at a total of €50,00.

2. LIABILITY CLAUSE

In an attempt to protect both Unprotected Stakeholders and Temporary Occupants against costs accrued by way of Damage to Property (with special attention given to the need on part of Temporary Occupants to return the exhibition space to its original Vacant Condition) both parties must agree to division of responsibility.

- a. Based on a scale ranging from solely responsible to partly responsible to completely irresponsible, the Temporary Occupant(s) and the Unprotected Stakeholders must enter into a negotiation surrounding an assumption of responsibility prior to the commencement of any activity to which Third Party Temporary Occupants are invited. As such, the division could be as follows:
 - i. The Temporary Occupant has total freedom to produce whatever they wish, on the condition that they sign a document assuming sole liability.
 - ii. The Temporary Occupant and the Unprotected Stakeholder mutually agree to take shared responsibility of any indemnity or repair costs resultant from the Temporary Occupant's occupation of Marwan.
 - iii. The Unprotected Stakeholders assume full responsibility when the occupation is assessed to be of low to no risk.
- b. In order to successfully evaluate the division of responsibility, a viability test may be performed in the space prior to the arrival of any Third Party Temporary Occupants and on the proviso that both parties agree to take the risk.
- c. On the occasion that indemnity costs may be raised, the Unprotected Stakeholders and the Temporary Occupant(s) must split the costs according to the percentage of responsibility assumed. E.g. If responsibility is split 50/50 than each party must pay 50% of the costs.

3. PERSONAL PROPERTY CLAUSE

In an attempt to protect the right to artistic expression—though not to be confused with the protection of Artistic Autonomy at all costs—and upon the completion of Clause 2 of this policy, the Unprotected Stakeholders assume the role of taking care of any Personal Property belonging to the Temporary Occupant(s) as their main responsibility. However,

- a. In order to establish the bounds of ‘taking care’, an initial meeting will be held to initiate a mutual formulation of expectations.
- b. In an attempt to work against frustration as the basis from which work arises, the relevant parties recognise and accept their intended boundaries as clashing rights and interests, and clearly present the effects of expectations in the artist-run sector as: 1. The Unprotected Stakeholders’ anxieties around meeting the artists’ demands given the physical and financial

conditions in place; 2. The Temporary Occupant(s)' frustrations in adapting and reacting to those limitations in relation to maintaining their productive Artistic Autonomy.

- c. In a gesture of mutuality, each Temporary Occupant also assumes the role of taking care of any Real Property, by receiving a 1% share in Marwan and becoming Beneficial Owners. However, Temporary Occupants are welcome to decline the offer of share, and furthermore forgo their share after a year of deemed inaction.
- d. Name and other details of the Beneficial Owners are entered into a register for members of Marwan's newly instated Board of Expression.
- e. The Unprotected Stakeholders continue to govern as Board of Directors for the benefit of Beneficial Owners.

4. PROPERTY IN EXPRESSION CLAUSE

As a consequence of any mutuality instituted agreement resulting from Clause 3 (that is, between Unprotected Stakeholders in relation to any Personal Property belonging to the Temporary Occupant(s); or between Temporary Occupant(s) and Unprotected Stakeholders upon the assumption of shares in what is forthwith deemed Collective Property), properties and values of autonomy are required to be attributed to interdependent activities.

- a. As such, any Personal Property grows in value through (inter) dependency based on the involvement of actors and parts. The Unprotected Stakeholders are therefore considered to be actively contributing to creating conditions for the circulation of Personal Property in the context of a planned activity at Marwan and in relation to any invitation set forth to Third Party Temporary Occupants.
- b. As such, any Personal Property should communicate the power dynamics on which it was constituted within the scope of a Moral (personal) Right. As the Personal Property gets contested, and autonomy is revealed as a game of forces between responsibility and dependence played out in determining the protection of said property, a certification of Creative Agency is required so as to show the investment of forces exerted in order to bring the Personal Property and its protection into being. This certification should accompany every body of Personal Property housed by Marwan.
- c. Consequently, the Unprotected Stakeholders similarly agree to

make visible the Artistic Interest developing in their program of activities.

IV. DEFINITIONS

Artistic Autonomy	The artist's claim to the right or condition of self-government where artistic production is concerned.
Artistic Expression	The right to find expression for an idea by making conscious use of imagination in the production of objects intended to be contemplated or appreciated in the arrangement of concepts and forms.
Artistic Interest	The personal interest of <u>Unprotected Stakeholders</u> to be drawn upon when considering the effects of the long-term activity of publically operating and programming an artists-run space without possessing claims to the <u>Personal Property</u> produced.
Beneficial Owners	Anyone who enjoys the benefits of ownership of a security or property, without being on the record as being the owner.
Collective Property	Parts of a delineated area that are not private or personal property, but which are instead owned collectively by a group of people with an acting head.
Damage to Property	Physical injury or destruction of tangible property caused by either an individual who is not the owner of said property or by natural phenomenon.
Joint Tenancy	The holding of an estate or property jointly by two or more parties, the share of each passing to the other or others on the occasion of death or upon forfeit.
Moral Right	The right of a creative artist to protect the integrity and ownership of their work.

Personal property	Anything besides land that may be subject to ownership.
Real property	Property that doesn't move, or that is attached to the land. This is in contrast to personal property, which can be moved or transferred physically.
Property in Expression	A claim to a form of property premised on the notion that the action of making ones thoughts or feelings known may sediment in the replication of a physical or aesthetic gesture or indiscernible verbal utterance, whereby the existence of recordable language or physical property as concrete evidence may not be applicable.
Safety Measure	A measure taken to increase or ensure safety or protection from danger.
Sole Ownership	Exclusive ownership. It is an ownership so complete that no other person has any interest in the property.
Temporary Occupants	Individuals who have entered into a verbal or written agreement to provide or perform services within the space of Marwan under the guise of 'creative agency'.
Third Party Temporary Occupants	Those generally considered to belong to the public of Marwan, in whatever capacity interest or visitation may manifest.
Unprotected Stakeholders	The directors of Marwan, as stated publicly, who carry interest in operating a public program of events and activities and who intend this as a product of originality and artistic claim.
Vacant Condition	The original state of the exhibition space as not occupied or filled, and the subsequent expectation that <u>Temporary Occupants</u> must return it to this state of emptiness upon departure, as if it were expressionless.

V. RELATED POLICIES AND OTHER REFERENCES

Dan L. Burk, 'Feminism and Dualism in Intellectual Property,' *Journal of Gender, Social Policy & the Law* Vol. 15, No. 2, 2006.

Europees Agentschap voor veiligheid en gezondheid op het werk: Nederlands Focal Point [The Netherlands Focal Point for Safety and Health at work], <https://www.arboineuropa.nl/en>.

Debora Halbert, 'Feminist Interpretations of Intellectual Property,' *Journal of Gender, Social Policy & the Law* Vol. 14, No. 3, 2006.

Mary L. Heen, 'From Coverture to Contract: Engendering Insurance on Lives,' *Yale Journal of Law & Feminism* Vol. 23, No. 2, 2011.

'No. XI. Married Women's Property: An Act to amend the Law relating to the Rights and Liabilities of Married Women,' The 42nd Parliament of Victoria, Australia, 1879.

'The Occupational Health and Safety Vulnerability Measure,' developed by the Institute for Work & Health (IWH), Toronto.

VI. APPROVAL AND REVIEW DETAILS

Valentina Curandi and Isabelle Sully intend to monitor the implementation and suitability of the policy over the course of the next year (September 2019 – September 2020), making amendments where required in conversation with Marwan [Tirza Kater and Tim Mathijsen]. Current records of any amendments to the policy are noted follows:

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| July 15, 2019 | Occupational Health & Safety Audit of Marwan, compiled by Valentina Curandi and co-conducted with Isabelle Sully in the presence of Tirza Kater And Tim Mathijsen [See: Appendix 1: Measures for Marwan, 2019, video recorded Occupational Health & Safety audit, 73min]. |
| July 16 – 17 | Review of results conducted by Valentina Curandi and Isabelle Sully. |
| July 20 | The writing of first policy draft by Isabelle Sully. |

- July 22 Review of first policy draft by Valentina Curandi with written feedback attached.
- July 23 Amendments to policy draft made by Isabelle Sully on suggestion from Valentina Curandi
- August 18 Policy development meeting between relevant stakeholders. Meeting lead by Isabelle Sully in the presence of Valentina Curandi, Tirza Kater and Tim Mathijsen (via Skype).
- August 21 Amendments to policy draft by Isabelle Sully based on findings from the policy development meeting.
- August 22 Final draft of policy shared with Valentina Curandi for approval.
- August 25 Amendments proposed by Valentina Curandi inserted in the policy for final negotiation with Isabelle Sully.
- August 27 Final draft of policy submitted to Marwan (Tirza Kater and Tim Mathijsen) for approval.
- August 29 Final draft of policy approved by Marwan (on behalf of Tirza Kater).
- August 30 Policy IV: Regarding Property officially signed off on by all parties.
- August 31 Policy IV: Regarding Property sent to Yin Yin Wong for template design.
- September 7 Implementation of policy begins
[See: Appendix II: Hiding in the Open, 2019, temporarily inverted plasterboard, image transfer, 'Policy Statement' from Policy No. IV: Regarding Property, 33 x 71cm].