



NYCLU

NEW YORK CIVIL LIBERTIES UNION

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November 13, 2008

Mr. Donald Ranshte
Director of Community Affairs
New York City Department of Buildings
280 Broadway
New York, New York 10007

Dear Mr. Ranshte:

We are writing with respect to the removal of a banner displaying a 1953 recreation of a Picasso portrait of Joseph Stalin from the façade of Cooper Union's historic building. The banner was part of an art exhibit, entitled "Stalin by Picasso, or Portrait of woman with mustache." According to a New York Times report, the removal of the banner occurred "[a]fter complaints to the City Building Department" were made by members of the Ukrainian community in the East Village who were upset by a banner that seemed to promote Stalin on the "75th anniversary of a famine imposed by Stalin that killed millions of Ukrainians." City Room Blog, New York Times.com, November 7, 2008.

We do not know whether the installation of the banner was accomplished in conformance with City law and any applicable permit requirements. And we assume that City regulations respecting such non-commercial installations are content-neutral and do not turn upon the views or substance expressed by the banners. But, even if the regulations are content-neutral, First Amendment concerns would be raised if such regulations were to be selectively enforced on the basis of content. Thus, for example, if building code inspectors were to seek to enforce City regulations because of concerns about the message conveyed by the banner or because some members of the community are upset about the content of the message, such conduct would run afoul of the First Amendment.

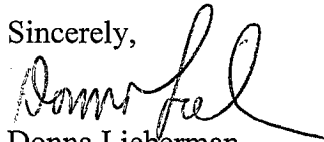
We ask, therefore, that you explain the basis for the Building Department's apparent conclusion that the installation of the banner was not in conformance with New York City law and that you assure the artist, the curator of the exhibit, and the officials at Cooper Union that your Department's objection to the banner did not turn upon its content. We ask further that you expeditiously process whatever permits are necessary so that the banner and the art exhibit can be re-installed as soon as possible.

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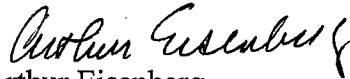
In advancing these requests we remain mindful of the concerns of the Ukrainian community. We understand that members of that community may regard the portrait of Stalin as offensive. But, under our system of free expression, the appropriate response to offensive speech should not involve in coerced silence. Rather, it must involve "more speech" to explain how and why the original expression is offensive. Those within the Ukrainian community should employ whatever public platforms are available to them to explain why the Stalin portrait offends. But it is not the role of government to employ its regulatory authority to silence artistic expression. Mayor Bloomberg well understood this point when he disbanded the Decency Commission upon entering office. We should expect a similar sensitivity to the First Amendment concerns presented by this controversy.

Thank you for your attention to this matter.

Sincerely,



Donna Lieberman
Executive Director



Arthur Eisenberg
Legal Director

cc: Lene Berg
Sara Reisman, Associate Dean, Cooper Union