

AFSCME Written Testimony in Support of SB 284

This written testimony contains documentation supporting the status of the Trustees of the Walters Art Gallery, Inc. (“Museum”) as an instrumentality of the State of Maryland operated as an agency of the City of Baltimore. This testimony is submitted in support of Maryland Senate Bill 284.

The following Attachments are included in this packet:

1. Attachment 1 contains excerpts from a financial report compiled on behalf of the Trustees of the Walters Art Gallery by the accounting firm Ellin & Tucker.
2. Attachment 2 contains a brief memo explaining the distinction between the Walters Museum and the Walters Foundation.
3. Attachment 3 contains sources of public funding for the Museum through Fiscal Year 2022.
4. Attachment 4 contains recent property tax records for the Museum. Each record shows that the “MAYOR AND CITY COUNCIL” own the Museum’s buildings.
5. Attachment 5 contains a 1954 letter from the U.S. Treasury Department, stating that the Museum was “created by an Act of the Maryland State Legislature and operate[s] as an agency of the Mayor and City Council of Baltimore.” The letter also states that “Since you are an instrumentality of the State of Maryland, you are not subject to federal income tax.”
6. Attachment 6 contains a 1965 letter from the U.S. Treasury Department detailing the Museum’s creation by statute and reaffirming the exclusively public purpose of the Museum.
7. Attachment 7 contains a grant form submitted by the Museum to the National Endowment for the Humanities. In this form, the Museum marked the box identifying itself as a “Unit of State/Local Government.”
8. Attachment 8 is a September 7, 2022 letter noting that the Museum has been instructed to “check the box for governmental agency” for the purposes of employee eligibility for federal student loan forgiveness.
9. Attachment 9 is an announcement of the Museum’s 2012 “Public Property” exhibition, which states that: “This summer, the Walters Art Museum will present Public Property, an exhibition collectively created by the public. In 1931, the museum’s founder Henry Walters bequeathed the core collection of the Walters to the City of Baltimore “for the benefit of the public.” The Walters’ art is owned by the public, and it is the public who will determine what this exhibition will be.”
10. Attachment 10 contains three relevant pieces of legislation:
 - a. Chapter 217 (1933) incorporates the Trustees of the Walters Art Gallery as an agency of the City of Baltimore. The Act also provides that the Mayor and City Council Chair shall always be members of the Board.
 - b. Chapter 16 (1939) provides for Museum employees’ participation in the city’s retirement system plan, also described in Attachment 1.
 - c. Chapter 457 (1959) amends the 1933 statute to explicitly give the Mayor and City Council of Baltimore the authority to appoint trustees to the Museum’s Board by ordinance.

11. Attachment 11 contains an affidavit and determination letter from the U.S. Treasury Department classifying The Walters Art Museum Foundation, Inc., which is distinct from the Trustees of the Walters Art Gallery (Museum), as a 501(c)(3) and a public charity under 509(a)(3).

12. Attachment 12 is The Walters Art Museum Foundation, Inc.'s Form 990, in which the Foundation describes its purpose as "to support and benefit the charitable and educational purposes of the institution known as the Trustees of the Walters Art Gallery, Inc. dba The Walters Art Museum." The Foundation has zero employees listed and has only three voting members on its governing body. The Foundation does not oversee or hold possession of any art or collections.

13. Attachment 13 is a January 2023 decision by the Circuit Court for Baltimore City, holding that the Walters Museum is a public entity under the Maryland Public Information Act.

Attachment 1
Walters Audited
Financial Statement

ELLIN & TUCKER

**TRUSTEES OF THE WALTERS ART GALLERY
FINANCIAL STATEMENTS
JUNE 30, 2017 AND 2016**



INCOME TAXES

As an instrumentality of the Mayor and City Council of Baltimore, the Museum is exempt from federal income taxes under sections of the Internal Revenue Code (IRC). In addition, the Museum qualifies for charitable contributions deductions under Section 170(b)(1)(A).

The Museum follows the provisions of Accounting for Uncertainty in Income Taxes under the Income Taxes Topic of the Codification. The Codification requires the evaluation of tax positions, which include maintaining its tax-exempt status and the taxability of any unrelated business income, and does not allow recognition of tax positions which do not meet a “more-likely-than-not” threshold of being sustained by the applicable tax authority. Management does not believe it has taken any tax positions that would not meet this threshold.

EXPENSE ALLOCATION

The costs of providing various programs and other activities have been summarized on a functional basis in the Statements of Activities. Administration expenses include those expenses that are not directly identifiable with any other specific function but provide for the overall support and direction of the Museum.

RECLASSIFICATIONS

Certain prior year amounts have been reclassified to conform to the current year presentation.

NOTE 2 FAIR VALUE MEASUREMENTS

The Fair Value Measurements and Disclosures Topic of the Codification establishes a hierarchal disclosure framework, which prioritizes and ranks the level of market price observability used in measuring investments and other financial instruments at fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are described as follows:

- Level 1 Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Museum has the ability to access.

- Level 2 Inputs to the valuation methodology include:
 - Quoted prices for similar assets or liabilities in active markets;

(See Independent Auditors' Report)

Attachment 2

Explanation of Walters Foundation Tax Status

Explanation of tax statuses of the Walters Art Museum and the Walters Foundation under Tax Code

The Walters Art Museum Foundation, Inc., is a corporation and has a tax-exemption under 501(c)(3) of the Internal Revenue Code (“IRC” or “Tax Code”). This memo will refer to it as the “Foundation” or the “Walters Foundation” as distinct from the Trustees of the Walters Art Gallery Inc.

The Foundation is a separate and distinct entity from the Trustees of the Walters Art Gallery, Inc., which is a government-created entity established by an act of the Maryland Legislature and ordinances of the City of Baltimore, this memo will refer to it as the “Museum” or “Walters Museum.”

The Foundation has no employees, owns no property or artwork, and its only assets are financial investments derived from donations by individuals or foundations to it. See Attachment 12 (Form 990 filed by Walters Foundation). It exists for the purpose of supporting the work of the Walters Museum. Id. In the words of the Foundation’s filings:

“The Walters Art Museum Foundation, Inc., is a Type I supporting organization whose mission is to support, benefit, and further the educational interests and mission of the Trustees of the Walters Art Gallery which uses the trade name of the Walters Art Museum. The Walters Art Museum is an instrumentality of the Mayor and City Council of the City of Baltimore.”

Why was the Walters Foundation Established?

The Foundation was established because of federal limitations on the deductibility of charitable donations made to governmental entities by individual donors, as set forth in the Internal Revenue Code.

The Museum enjoys its tax-exempt status because it is a governmental entity or Instrumentality of the government, *it is not a 501(c)(3) organization*. See Attachment 5 (Walters Museum tax-exempt letter issued by Treasury Department). As a governmental unit, individual contributions to the Walters Museum were tax deductible pursuant to section 170(b)(1)(A)(V), *but only to a limited degree because it is a governmental instrumentality and not a charity*. See Attachment 6 (1965 Walters Revenue Ruling).

This fact is reflected in the Treasury Department’s May 7, 1965 Revenue Ruling issued to the Walters Museum. See Attachment 6. The 1965 Revenue Ruling states: “It is held that gifts made to [Walters Museum] constitute contributions made to an organization described in section 170(b)(1)(A)(v) for an exclusively public purpose.” Section 170(b)(1)(A)(v) of the IRC refers to “a governmental unit referred to in subsection (c)(1)” and (c)(1) includes the Walters as it is:

“owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions.”

See 26 U.S.C. sec. 170 and Attachment 6.

The effect of these tax laws is to place caps on the amount of contributions individual patrons or donors can make to the Walters Museum (amounts over that threshold would not be deductible from income), as noted in the 1965 Ruling: “Accordingly the Special limitations provided in section 170(b)(1)(A) is applicable to contributions made to you by individual donors.” See Attachment 6. Those limitations are spelled out in the IRC as described in the Revenue Ruling.

Because of these limitations on the deductibility of contributions made to governmental entities like the Walters Museum, the Tax Code was later updated, in 1969 to add section 509, to allow the formation of 501(c)(3) tax-exempt entities for the purpose of receiving charitable contributions to support the work of a governmental institutions without the deductibility cap applicable to the governmental institution itself.

The Requirements of the Foundation's Tax Exemption Pursuant to IRC sec. 509(a)(3)

The Walters Museum's position that it is not a governmental instrumentality is reckless from a tax law perspective. The very existence of the Walters Foundation establishes that the Walters Museum is a governmental entity. If this were not the case, then the Walters Foundation would be out of compliance with the Tax Code, its income would be taxable, and the donors who made contributions to the Foundation would have to revise their tax returns (as their contributions to the Foundation would have been improperly deducted from their income).

This is because the Foundation's 501(c)(3) tax exemption is predicated on its status as a public charity and supporting organization under IRC section 509(a)(3). See Attachment 11 (Affidavit of Walters Foundation). As set forth in its Articles of Incorporation as required by these provisions of the Tax Code, the Foundation's purpose is to function as a supporting organization to a governmental instrumentality that is, the Walters Museum. Under 509(a)(3) an organization can receive a 501(3)(c) tax exemption as a supporting organization to an entity that qualifies as "an organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)," which, as explained above, means "a governmental unit... which is owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions." No other categories apply to warrant the Foundation's status as a 509(a)(3) supporting organization.

Thus, if the Museum were not a governmental unit, the Foundation's tax exempt status would be jeopardized.

Attachment 3

Sources of Public Funding

Public Funding for the Walters Art Museum

* The City of Baltimore, through its Arts and Culture Grants program, pays the costs of healthcare, retirement benefits, and the employer share of the payroll tax for Walters Art Museum employees. For the current (FY 22) budget year, these costs are estimated at \$1,968,609.¹ While the museum's overall revenue fluctuates from year to year due to the volatility of investment income, these employee benefit contributions from the city alone accounted for nearly 10% of the museum's total revenue in fiscal year 2019.²

* Under the same program, the city gives an additional annual appropriation for general expenses of the Walters; the estimated amount for this fiscal year is \$242,492.³ The Walters is currently the third-largest recipient of annual support from the Maryland State Arts Council (after the Baltimore Symphony Orchestra and Baltimore Museum of Art), receiving \$1.1 million from the Arts Council in fiscal year 2021.⁴ Baltimore County gives annual support to the Walters; in FY 2022, this county support included a \$310,000 operating grant, and through FY 2020, the county was giving the Walters an annual \$100,000 endowment grant as well.⁵ Much smaller amounts come from the Maryland Department of Education⁶ and from the Howard County Arts Council.⁷ All told, in fiscal year 2019, these sources of public funding for the Walters (in addition to the City of Baltimore's support for employee benefits) accounted for another 10% of the museum's total revenue.⁸

* The Walters Art Museum has also received one-time support from government agencies at various levels. In 2020, it took out a forgivable loan of \$1,589,000 under the federal government's Paycheck Protection Program,⁹ intended to mitigate the impact of COVID-19. The pandemic nevertheless had limited impact on the museum's revenue, since the annual operating grants from Baltimore City, Baltimore County, Howard County, and the Maryland State Arts Council have enabled the museum to allow free admission ever since a 2006 lead gift of \$800,000 from Baltimore City and Baltimore County to both the Walters Art Museum and the Baltimore Museum of Art.¹⁰ This October, the Walters received a \$463,000 grant from the National Endowment for the Humanities, thanks to the federal government's American Rescue Plan.¹¹

¹ [City of Baltimore Board of Estimates Recommendations, Fiscal 2022, Agency Detail – Volume I](#), p. 361.

² [The Walters Art Museum, Annual Report, Fiscal Year 2019](#), p. 30.

³ [City of Baltimore Board of Estimates Recommendations, Fiscal 2022, Agency Detail – Volume I](#), p. 361.

⁴ [List of FY 2021 Grants for Organizations by County](#) from the Maryland State Council on the Arts.

⁵ Online [list of Baltimore county operating and endowment grants](#).

⁶ The state's Department of Education gives around \$16,000 annually to the Walters as part of its grant program for educational institutions, according to the [Maryland State Department of Education agency breakout in the FY 2020 Maryland State budget](#), p. 515.

⁷ The Howard County Arts Council gives annual grants to organizations in the City of Baltimore that provide services to Howard County residents, including the Walters Art Museum. In FY 2022, this grant for the Walters was \$15,300, according to the [announcement of FY 2022 Howard County Arts Council awardees](#).

⁸ [The Walters Art Museum, Annual Report, Fiscal Year 2019](#), p. 30.

⁹ According to the [list of PPP recipients over \\$150,000](#) from the Small Business Administration.

¹⁰ Walters Art Museum press release, "[Free Admission to Baltimore Museum of Art and Walters Art Museum Begins October 1](#)," May 31, 2006.

¹¹ Walters Art Museum press release, "[Walters Art Museum Receives Major Grant from the National Endowment for the Humanities](#)," October 18, 2021.

Attachment 4

Property Tax Statements

Real Property Data Search

Search Result for BALTIMORE CITY

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: Ward - 11 Section - 10 Block - 0534 Lot - 011

Owner Information

Owner Name: MAYOR & CITY COUNCIL **Use:** EXEMPT COMMERCIAL
Principal Residence: NO
Mailing Address: 600 N CHARLES ST **Deed Reference:** /00448/ 00442
 BALTIMORE MD 21201-5117

Location & Structure Information

Premises Address: 1 W MOUNT VERNON PL **Legal Description:** 62X160
 BALTIMORE 21201-5103

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0011	0000	0000	11000.03	0000	10	0534	011	2020	Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1851	14,280 SF		9,920 SF	11120

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
		OFFICE BUILDING	/	C4			

Value Information

	Base Value	Value As of 01/01/2020	Phase-in Assessments	
			As of 07/01/2021	As of 07/01/2022
Land:	545,600	545,600		
Improvements	974,000	1,123,000		
Total:	1,519,600	1,668,600	1,618,933	1,668,600
Preferential Land:	0	0		

Transfer Information

Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2021	07/01/2022
County:	560	1,618,933.00	1,668,600.00
State:	560	1,618,933.00	1,668,600.00
Municipal:	560	0.00 0.00	0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Real Property Data Search

Search Result for BALTIMORE CITY

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: Ward - 11 Section - 10 Block - 0534 Lot - 009

Owner Information

Owner Name: MAYOR & CITY COUNCIL **Use:** EXEMPT COMMERCIAL
Principal Residence: NO
Mailing Address: 5 W MOUNT VERNON PL **Deed Reference:** /00172/ 00104
 BALTIMORE MD 21201-5103

Location & Structure Information

Premises Address: 5 W MOUNT VERNON PL **Legal Description:** 30-6X160
 BALTIMORE 21201-5103

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0011	0000	0000	11000.03	0000	10	0534	009	2020	Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1849	10,152 SF		4,880 SF	71120

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
		OFFICE BUILDING	/	C4			

Value Information

	Base Value	Value As of 01/01/2020	Phase-in Assessments	
			As of 07/01/2021	As of 07/01/2022
Land:	268,400	268,400		
Improvements	673,400	782,400		
Total:	941,800	1,050,800	1,014,467	1,050,800
Preferential Land:	0	0		

Transfer Information

Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2021	07/01/2022
County:	460	1,014,467.00	1,050,800.00
State:	460	1,014,467.00	1,050,800.00
Municipal:	460	0.00 0.00	0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Real Property Data Search

Search Result for BALTIMORE CITY

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: Ward - 11 Section - 10 Block - 0534 Lot - 005

Owner Information

Owner Name: MAYOR & CITY COUNCIL **Use:** EXEMPT COMMERCIAL
Principal Residence: NO
Mailing Address: 600 WASHINGTON PL **Deed Reference:**
 BALTIMORE MD 0

Location & Structure Information

Premises Address: 600 WASHINGTON PL **Legal Description:** 120X155
 BALTIMORE 0-0000

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0011	0000	0000	11000.03	0000	10	0534	005	2020	Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1978	18,372 SF		18,677 SF	91020

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
		GOVERNMENT BUILDING	/	C6			

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2020	07/01/2021	07/01/2022
Land:	1,027,200	1,027,200		
Improvements	5,251,900	5,873,600		
Total:	6,279,100	6,900,800	6,693,567	6,900,800
Preferential Land:	0	0		

Transfer Information

Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2021	07/01/2022
County:	460	6,693,567.00	6,900,800.00
State:	460	6,693,567.00	6,900,800.00
Municipal:	460	0.00 0.00	0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Attachment 5

1954 Tax
Exemption Letter



U. S. TREASURY DEPARTMENT
WASHINGTON 25

OFFICE OF
COMMISSIONER OF INTERNAL REVENUE

ADDRESSES REPLY TO
COMMISSIONER OF INTERNAL REVENUE
AND REFER TO

T:R:PEO:6
MEM

OCT 6 1954

Trustees of Walters Art Gallery

Baltimore 1, Maryland

Gentlemen:

We have your letter of September 22, 1954 transmitting a pamphlet setting forth copies of the documents whereby you were established.

It is shown that you are a corporation created by an act of the Maryland State Legislature and operate as an agency of the Mayor and City Council of Baltimore in the management and operation of the real properties, art treasures and income given to the Mayor and City Council of Baltimore under the last will and testament of Henry Walters.

Since you are an instrumentality of the State of Maryland you are not subject to Federal income tax. You are not required, therefore, to file Federal income tax returns.

Contributions to you are deductible by the donors in computing their taxable income in the manner and to the extent provided by section 170 of the Internal Revenue Code.

The District Director of Internal Revenue, Baltimore, Maryland, is being furnished a copy of this ruling.

Very truly yours,

C. Henry Keelham

Chief, Pensions and
Exempt Organizations Branch

Attachment 6

1965 Tax
Exemption Letter



U.S. TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

IN REPLY REFER TO

MAY 7 1965 T:R:I:MEP-3

Trustees of Walters Art Gallery
c/o Mr. Jacques T. Schlenger
1409 Mercantile Trust Building
Baltimore, Maryland 21202

No. 52-6002611W

Gentlemen:

A ruling is requested in a letter dated January 15, 1965, that you are an organization described in section 170(b)(1)(A)(v), or (vi), as added by the Revenue Act of 1964, and that contributions made to you by individuals are subject to the special limitation provisions of that section.

The file discloses that the City of Baltimore passed an ordinance during the 1932-33 Session authorizing the receipt of property and funds given to the Mayor and City Council of Baltimore under the last will of Henry Walters for the benefit of the public. The ordinance created and vested in the Trustees of the Walters Art Gallery certain duties, powers and authority for the management of the properties to be known in perpetuity as the Walters Art Gallery. In 1936 the State of Maryland passed a statute incorporating the Trustees of Walters Art Gallery under the laws of the State of Maryland. The statute provided for the reporting of the activities and operations of the Walters Art Gallery to the Board of Estimates of Baltimore City and with each Member of the City Council.

We have previously held that contributions made to you are deductible by an individual, subject to the limitation that the aggregate of his deductible contributions may not exceed 20 percent of his adjusted gross income as provided in section 170(b)(1)(B) of the 1954 Code.

Trustees of Walters Art Gallery

Under section 170(b)(1)(A)(v) of the 1954 Code, as added by the Revenue Act of 1964, individuals are allowed an additional deduction of not exceeding 10 percent of their adjusted gross income for a contribution made after December 31, 1963, to a governmental unit referred to in section 170(c)(1) which includes a State, a Territory, a possession of the United States, or any political subdivision of any of the foregoing, etc. A contribution to such a governmental unit is deductible only if the contribution or gift is made for exclusively public purposes.

Based upon the information submitted, it is held that gifts made to you constitute contributions made to an organization described in section 170(b)(1)(A)(v) for an exclusively public purpose.

Accordingly, the special limitation provided in section 170(b)(1)(A) of the 1954 Code, as amended by the Revenue Act of 1964, is applicable to contributions made to you after December 31, 1963, by individual donors.

Very truly yours,

Lester W. Utter

Chief, Individual Income Tax Branch

Attachment 7

National Endowment for the Humanities Grant Application

- Circulating Copy -

APPLICATION COVER SHEET FOR NEH GRANT PROGRAMS

1. NAME OF PROJECT DIRECTOR OR INDIVIDUAL APPLICANT

Mr. Mrs. Ms. Dr. Prof. Major Field Code: _____

Name (last, first, middle): Spicer, Joaneath

Address: The Walters Art Museum
600 N. Charles Street

City: Baltimore State: MD Zip Code: 21201 Email: jspicer@thewalters.org

Telephone (work): 410-547-9000x258 (home): _____ Fax: 410-752-4797

2. INSTITUTION INFORMATION

Name of institution: The Walters Art Museum

City: Baltimore State: MD Zip Code: 21201

3. TYPE OF APPLICANT (apply as an institution or an individual)

<input checked="" type="checkbox"/> Institution	<input type="checkbox"/> Individual	
Type: <u>art museum</u>	<input type="checkbox"/> University Teacher	Citizenship
Status: <input type="checkbox"/> Private Nonprofit	<input type="checkbox"/> College Teacher / Indep. Scholar	<input type="checkbox"/> US <input type="checkbox"/> Other
<input checked="" type="checkbox"/> Unit of State/Local Government	<input type="checkbox"/> Junior Scholar	Country: _____
	<input type="checkbox"/> Senior Scholar	Month/Year: _____

4. APPLYING FOR (check one):

- | | |
|------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Challenge Grant | <input type="checkbox"/> Preservation Assistance Grant |
| <input type="checkbox"/> Collaborative Research | <input type="checkbox"/> Public Programs Consultation Grant |
| <input type="checkbox"/> Exemplary Education Project | <input checked="" type="checkbox"/> Public Programs Planning Grant |
| <input type="checkbox"/> Faculty Research Award | <input type="checkbox"/> Public Programs Scripting Grant |
| <input type="checkbox"/> Fellowships | <input type="checkbox"/> Public Programs Implementation or Production Grant |
| <input type="checkbox"/> Fellowship Programs at Independent Research Instit. | <input type="checkbox"/> Schools for a New Millennium |
| <input type="checkbox"/> Humanities-based Content for After-School Programs | <input type="checkbox"/> Summer Seminars <input type="checkbox"/> Institutes for School Teachers |
| <input type="checkbox"/> Humanities Focus Grant | <input type="checkbox"/> Summer Seminars <input type="checkbox"/> Inst. for College/Univ. Teachers |
| <input type="checkbox"/> Institutional Grant (Extending the Reach) | <input type="checkbox"/> Summer Stipends |
| <input type="checkbox"/> Preservation, Access, & Reference Works | |

5. TYPE OF APPLICATION

New Supplement Current Grant Number(s): _____ Project Field Code: _____

6. PROJECT TITLE: Chambers of Art and Wonders Planning Project

7. PROJECT DESCRIPTION (use only space provided):

The Walters Art Museum requests support for the planning of a permanent installation: The Chambers of Art and Wonders. This ground-breaking display will offer an imaginary recreation of a great Northern European princely collection of the late 17th century including armor, jewels, mechanical devices, paintings and sculpture, ingenious creations by peoples of Africa, Asia, and the Americas, and the exotic specimens from the natural world. Through the work of the project team of outside scholars, designers and staff, we will take full advantage of the Walters' collections as a unique resource for the creation of such an installation, through which we will engage the curiosity of our visitors, especially the young.

8. REQUESTED GRANT PERIOD From: May 1, 2002 To: April 30, 2003

OMB no. 3136-0134 ~ Expires 6/30/03

Attachment 8

Student Loan Forgiveness Letter

THE WALTERS ART MUSEUM

September 7, 2022

To Whom It May Concern:

The Walters Art Museum have been instructed by the Department of Education to check the box for governmental agency and to also provide supplemental documents along with the application in light of the Walters' unique history. In the interest of transparency and completeness, the following documents related to the structure and governance of the museum are enclosed:

- Will of Henry Walters
- October 6, 1954 letter from IRS
- Founding Booklet (1963)
- May 7, 1965 letter from IRS
- September 11, 2017 letter from IRS
- September 27, 2021 City Solicitor Opinion
- September 28, 2021 Bylaws
- Baltimore City Municipal Code Educational and Cultural Programs
https://legislativereference.baltimorecity.gov/sites/default/files/Art%2018%20-%20Educ&Cul_0.pdf

Kind Regards,



Ciera Collins

Human Resource Specialist

Attachment 9

"Public Property"

Exhibition

Description

EXHIBITIONS & INSTALLATIONS (/EXPERIENCE/EXHIBITIONS/)

Public Property

June 17, 2012–August 19, 2012

This summer, the Walters Art Museum will present Public Property, an exhibition collectively created by the public. In 1931, the museum's founder Henry Walters bequeathed the core collection of the Walters to the City of Baltimore "for the benefit of the public." The Walters' art is owned by the public, and it is the public who will determine what this exhibition will be.

From Dec. 2011–March 2012, a series of public choices were made, from deciding the exhibition title and theme, to selecting artworks. While on view June 17–Aug. 19, 2012, visitors will continue to contribute to, and change, this exhibition.

"At a time of increasing concern about equity and democracy within society, from the Occupy Wall Street movement to the Arab Spring, I've been thinking more about the role of museums not only to act as expert but also to encourage civic participation in our exhibition process," said Walters Director Gary Vikan. "This exhibition aims to be socially engaging and work with the public in a collaborative manner as an experiment and experience for both the participants and the museum itself."

The first stage of the planning process ran from Dec. 1–18, 2011. The public used the Walters' [works of art site](https://art.thewalters.org/) (<https://art.thewalters.org/>) to curate collections of artworks and tag them with keywords. The Walters' exhibition team analyzed collection tags to determine some popular themes that emerged from the online collections, including adornment, military, creatures and death. A vote was held, both online and at the museum, from Dec. 23, 2011–Jan. 8, 2012, to determine the exhibition theme. "Creatures" was the theme that received the most votes, ultimately becoming the publically determined theme for the exhibition. The team then selected a large group of artworks for the public to vote on related to creatures.

The public selected a total of 106 artworks to be part of the exhibition, including Antoine-Louis Barye's watercolor, Running Jaguar, and an Indian work on paper ca. 1675, A Wild Boar Hunt. A selection of the 23 most admired paintings will be displayed within the exhibition. Other artworks, including manuscripts and three-dimensional objects, will be featured on a "wall of fame," which will display images of the artworks along with labels and information about their popularity. Due to conservation concerns about the fragility of certain objects, the "wall of fame" enables the Walters to honor public choices and feature artworks chosen by the public, even if the objects cannot be physically exhibited.

"Once the exhibition is open, there will be a variety of interactive elements to complement the chosen artworks," said Walters Manager of Web and Social Media and exhibition team leader, Dylan Kinnett. "For example, a computer kiosk will provide a voting mechanism to allow visitors to vote and view how their decisions affect results in real time, as well

as up-to-the-minute trends.”

At each stage of the exhibition process, the museum is encouraging and supporting public contribution and decision-making. Responsive elements in the exhibition itself will ask visitors to make choices that may impact future museum decisions, as well as give greater insight into public preference.

“The exhibition vision, process and design are critical to changing perceptions and attitudes regarding museums by inviting civic participation in an intentional manner,” stated Manager of Family Programs and exhibition team leader, Emily Blumenthal. “We will also have a series of programs and events associated with the exhibition to invite visitors to become further involved with their community, their museum and their exhibition.”

Game Show at the Walters invites visitors to join an amusing and unusual opening event, June 23, 7:30–9:30 p.m., inspired by reality television game shows of the past and present. Our game show will feature the artworks as “contestants” where the winner is determined by the audience and a small panel of surprise celebrity judges. Other programs during the summer will include classic creature feature films and a public art tour.

Attachment 10

General Assembly Legislation

SECTION 771A. The Commissioners of the Town of Thurmont are authorized and directed to extend the taxable limits of the Town of Thurmont as they may deem just but in no instance shall said taxable limits exceed the corporate limits as laid down in Section 771 of Flack's Code of Public Local Laws of Frederick County.

SEC. 2. *And be it further enacted*, That this Act is hereby declared to be an emergency law and for the immediate preservation of the public health and safety and having been passed by a yea and nay vote, supported by three-fifths of all the members elected to each of the two Houses of the General Assembly of Maryland, the same shall take effect from the date of its passage.

Approved February 16, 1939.

CHAPTER 16.

(Senate Bill 13)

AN ACT to add a new sub-section to Section 6 of Article 4 of the Code of Public Local Laws of Maryland (1938 Edition), title "Baltimore City," sub-title "General Powers," sub-heading "Pensions," said new sub-section to be known as Sub-section 20E and to follow immediately after Sub-section 20D of said Section 6 of said Article, authorizing the Mayor and City Council of Baltimore to provide by ordinance for granting to the officers, agents, servants and employees of the Enoch Pratt Free Library, the Walters' Art Gallery, the Baltimore Museum of Art and the Municipal Museum of Baltimore, any of the benefits and advantages of the Employees' Retirement System of the City of Baltimore and specifying the credits which may be allowed said officers, agents, servants and employees for prior service, and providing that said officers, agents, servants and employees who become such after the passage of said ordinance shall submit to medical examinations before being admitted to said Employees' Retirement System.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That a new sub-section be and it is hereby added to Section 6 of Article 4 of the Code of Public Local Laws of Maryland (1930 Edition), title "Baltimore City," sub-title "General Powers," sub-heading "Pensions," said new sub-section to be known as Sub-section 20E, to follow im-

mediately after Sub-section 20D of said Section 6 of said Article, and to read as follows:

20E. To grant to the officers, agents, servants, and employees of the Enoch Pratt Free Library, the Walters' Art Gallery, the Baltimore Museum of Art and the Municipal Museum of the City of Baltimore, such of the benefits and advantages of the Employees' Retirement System of the City of Baltimore, established by Ordinance No. 553 approved February 1, 1926, as the Mayor and City Council may by ordinance provide, except that the Retirement System shall not be liable for the payment of any pensions or other benefits on account of said officers, agents, servants and employees, for which reserves have not been previously created from funds contributed specifically for such benefits by the City or said officers, agents, servants and employees. Provided, that any ordinance passed under authority of this sub-section may provide that every such officer, agent, servant or employee shall be entitled to credit for all service rendered prior to January 1, 1926 and for one-half of all service rendered between January 1, 1926 and the date of admission to the said Employees' Retirement System; provided, further, that any ordinance passed under authority hereof shall provide that any such officer, agent, servant or employee who shall become such after the passage of said ordinance shall, before becoming a member of the said Employees' Retirement System of the City of Baltimore, first submit to a medical examination similar to that required for employees in the Classified Service of the City of Baltimore.

SEC. 2. *And be it further enacted*, That this Act is hereby declared to be an emergency law and necessary for the immediate preservation of the public health and safety, and, being passed upon a ye and nay vote, supported by three-fifths of all members elected to each of the two Houses of the General Assembly, the same shall take effect from the date of its passage.

Approved February 24, 1939.

CHAPTER 17.

(Senate Bill 37)

AN ACT to repeal and re-enact with amendments Section 103 of Article 14 of the Code of Public Local Laws of Maryland of 1929, title "Howard County," subtitle

required. In case of any such hearing any party in interest may file data and information bearing thereon, without regard to the technical rules of evidence. Any such person or corporation so demanding a hearing may also in writing file information with the County Commissioners or the Appeal Tax Court of his address or the address of the agent or attorney to which any notices pertaining to said matter shall be sent, provided such agent or attorney representing such person or corporation has first filed with such County Commissioners or the Appeal Tax Court of Baltimore City or the assessing authorities of any other city his right or power of attorney to represent such person or corporation. If any such address shall be filed it shall be the duty of the County Commissioners or the Appeal Tax Court to cause a statement of the order or action or refusal to act of such County Commissioners or Appeal Tax Court to be posted in the United States Mails, postage prepaid, to such address, and no action or refusal to act shall be operative as against the person giving such address until such statement shall be so mailed. No demand for a hearing shall be granted under this section unless filed in the counties before the date of finality for the taxable year in question or in Baltimore City before July first preceding the taxable year in question.

SEC. 2. *And be it further enacted,* That this Act shall take effect June 1, 1933.

Approved April 5, 1933.

CHAPTER 217.

AN ACT to incorporate the Trustees of Walters Art Gallery, to provide for the management by said Corporation of the real properties and art treasures and income given to the Mayor and City Council of Baltimore under the last will and testament of Henry Walters, and to confer upon the Mayor and City Council of Baltimore and said Corporation certain powers with respect thereto.

WHEREAS, Henry Walters, distinguished citizen of Baltimore, has, by his last will and testament, made the City of Baltimore the beneficiary of the Walters Art Gallery, together with the objects of art contained in said property; and has made the City of Baltimore the beneficiary of an endowment fund with which to maintain the Walters Art Gallery.

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That Howard W. Jackson, Mayor of Baltimore; E. Lester Muller, President of the City Council; B. Howell Griswold, Jr., Sarah W. Walters, John J. Nelligan, Robert Garrett, A. R. L. Dohme, C. Morgan Marshall and Philip B. Perlman, and their successors, be and they are hereby constituted and created a body corporate under the laws of the State of Maryland under the name of the Trustees of Walters Art Gallery.

SEC. 2. *And be it further enacted,* That the purpose of the corporation shall be to have and exercise full and complete control over the real properties and contents given to the Mayor and City Council of Baltimore by Henry Walters, late of Baltimore City, deceased, under and by virtue of the provisions of his last will and testament, for the benefit of the public; and to have and exercise full and complete control over the expenditure of the income from the endowment fund given by Henry Walters, under and by virtue of the provisions of his last will and testament, for the purpose of maintaining the Walters Art Gallery, in the City of Baltimore, State of Maryland, for the benefit of the public; it being intended that the corporation created by this Act shall be the agency of the Mayor and City Council of Baltimore through which the directions and intent of Henry Walters shall be obeyed, and his objects realized.

SEC. 3. *And be it further enacted,* That the said Corporation shall have power to agree with the Mayor and City Council of Baltimore as to the terms, conditions and provisions under which the real properties, art treasures and income will be managed and administered by said Corporation for the benefit of the public, and the Mayor and City Council of Baltimore is hereby authorized and empowered to enter into such an agreement as it may deem advisable. the said Corporation is hereby authorized and empowered to exercise any of the powers which may have been and which may hereafter be conferred upon it by any ordinance of the Mayor and City Council of Baltimore, and especially the powers granted in Ordinance of the Mayor and City Council No. 400, approved March 8th, 1933.

SEC. 4. *And be it further enacted,* That the said Corporation shall be governed by a board of nine trustees, of whom one shall always be the Mayor of Baltimore, for the time being; one shall be the President of the City Council,

for the time being, and one shall be a representative of the Safe Deposit and Trust Company, a body corporate of the State of Maryland and trustee under the last will and testament of Henry Walters. Until their successors are elected the board of trustees shall be those named as incorporators herein.

The Board shall have power to make, alter and repeal by-laws; to fill vacancies in the membership of the Board, and to provide, in such by-laws, for terms for its members, except those named ex-officio; provided that such terms shall conform with any ordinance of the Mayor and City Council of Baltimore, and provided, further, that the term of Sarah W. Walters as a member of said Board shall be the period of her life.

The Board shall have power to elect or appoint a president, who shall be a member of the Board; a secretary and a treasurer, and such other officers as its by-laws may provide, and one person may fill more than one office, as the Board may determine.

The Board shall have full and exclusive power to appoint a director for the Walters Art Gallery, and to appoint or provide for the appointment of such curators, assistants and other employes as may be advisable.

The Board shall, generally, have all the powers with respect to the affairs of said corporation which are conferred by the Public General Laws of Maryland upon the directors or managing bodies of Maryland corporations. And the powers of the corporation shall include the power to acquire, hold, manage, sell, exchange, encumber or otherwise dispose of any property, real, personal or mixed; and to accept any grant, gifts, devises or bequests made to said Corporation, absolutely, or in trust, for any of the purposes of said Corporation, or for any purposes germane thereto, and to execute such trusts. Any payment of income made by the Safe Deposit and Trust Company, trustee under the last will and testament of Henry Walters, to the Trustees of Walters Art Gallery, a body corporate, provided said Corporation is authorized by ordinance of the Mayor and City Council of Baltimore to receive such payment or payments on behalf of the Mayor and City Council of Baltimore, shall have the same effect as a payment to the Mayor and City Council of Baltimore, and the trustee shall be released, acquitted and discharged of all responsibility or liability therefor.

SEC. 5. *And be it further enacted,* That said Corporation shall be classed as an educational corporation, but

shall not be required to file any reports or accounting with any agency of the State. It shall file such reports with the Mayor and City Council of Baltimore as may be agreed upon and directed by ordinance.

SEC. 6. *And be it further enacted*, That this Act shall take effect from and after June 1, 1933.

Approved April 5, 1933.

CHAPTER 218.

AN ACT to repeal and re-enact, with amendments, Sections 213 and 216 of Article 56 of the Annotated Code of Public General Laws of Maryland, Edition of 1924, title "Licenses," Part VII, sub-title "Gasoline Tax"; to repeal Section 221 of said Article, and to add three new sections to said Article, two of said sections to follow immediately after Section 213, to be known as Sections 213A and 213B, and the remaining new section to be added immediately after Section 216, to be known as Section 216A, to provide for the better enforcement of the Gasoline Tax Law, requiring each dealer herein to obtain from the Comptroller a license to sell gasoline, which license is subject to revocation for cause shown; requiring dealers to furnish bond to the Comptroller, conditioned upon compliance with the provisions of this sub-title; requiring reports from carriers transporting motor vehicle fuel at any time and from time to time upon written request of the Comptroller covering shipments of gasoline into this State; requiring dealers to maintain and keep records of all motor vehicle fuel received for a period of two years.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That Sections 213, 216 and 221 of Article 56 of the Annotated Code of Public General Laws of Maryland, Edition of 1924, title "Licenses," Part VII, sub-title "Gasoline Tax," be and the same are hereby repealed and re-enacted, with amendments, to read as follows:

213. It shall be unlawful for any dealer to receive, sell, use, or distribute any motor vehicle fuel or to engage in business within this State unless such dealer is the holder

6.

(a) Before the clerk of any of the courts aforesaid shall issue any license he shall examine one of the contracting parties to the marriage, under oath, who shall appear personally before the clerk and make application for the same, and the clerk shall ascertain; first, the full name of the parties; second, their place of residence; third, their age; fourth, their color; fifth, whether married or single; sixth, whether related or not, if so, in which degree of relationship; seventh, if ever divorced; which facts upon the payment of one dollar (\$1.00) as an application fee shall be set out in printed form to be signed by the person making the application, and no such license to marry shall be delivered by the clerk until after the expiration of forty-eight (48) hours from the time application is made therefor; provided, however, that any judge of the circuit court of the county in which the application is made, or if made in Baltimore City, any judge of the Court of Common Pleas, for good and sufficient cause shown, may, by an order in writing signed by him, authorize the clerk to deliver such license at any time after the application therefor, but such order shall not be signed unless one or both of the contracting parties are bona fide residents of Maryland, except where one of the contracting parties is a member of the armed forces of the United States. It shall be unlawful for the clerks of any of the courts aforesaid to make public the fact of an application for a marriage license until such license shall have been issued except to the parent or guardian of either of the contracting parties.

(b) *In Cecil County both of the contracting parties to the marriage shall appear together personally before the clerk and make application as heretofore provided.*

SEC. 2. *And be it further enacted, That this Act shall take effect June 1, 1959.*

Approved April 8, 1959.

CHAPTER 457

(House Bill 364)

AN ACT to authorize the Mayor and City Council of Baltimore to increase the number of the Trustees of the Walters Art Gallery.

SECTION 1. *Be it enacted by the General Assembly of Maryland, That in addition to the nine trustees of the Walters Art Gallery, Baltimore, Md., provided for by Section 4 of Chapter 217 of the Acts of the General Assembly of Maryland of 1933, of whom three are ex-officio, there shall be such ex-officio and elected trustees as*

EXPLANATION: *Italics indicate new matter added to existing law.*

[Brackets] indicate matter stricken from existing law.

CAPITALS indicate amendments to bill.

~~Strike out~~ indicates matter stricken out of bill.

may be authorized from time to time by ordinance of the Mayor and City Council of Baltimore.

SEC. 2. *And be it further enacted*, That this Act shall take effect June 1, 1959.

Approved April 8, 1959.

CHAPTER 458

(House Bill 367)

AN ACT to add new Section 460A 39A to Article 27 78 of the Annotated Code of Maryland (1957 Edition), title "~~Crimes and Punishments~~", sub-title "~~Railroads~~" "PUBLIC SERVICE COMMISSION LAW", sub-title "PUBLIC SERVICE COMPANIES", to follow immediately after Section 460 39 thereof, relating to maintenance and care of the real CERTAIN property of railroads in this State, and providing a penalty for violation thereof.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That new Section 460A be and the same is hereby added to Article 27 of the Annotated Code of Maryland (1957 Edition), title "~~Crimes and Punishments~~", sub-title "~~Railroads~~", to follow immediately after Section 460 thereof, and to read as follows: THAT NEW SECTION 39A BE AND THE SAME IS HEREBY ADDED TO ARTICLE 78 OF THE ANNOTATED CODE OF MARYLAND (1957 EDITION), TITLE "PUBLIC SERVICE COMMISSION LAW", TO FOLLOW IMMEDIATELY AFTER SECTION 39 THEREOF, AND TO READ AS FOLLOWS:

460A 39A. In order to provide employees a reasonably safe place to work, it shall be the duty of all persons, firms or corporations engaged in the operation of railroads in this State to keep and maintain their real property, including rights-of-way, reasonably free from all debris and all types of vegetation, which debris and vegetation unreasonably affect the safety and comfort of their employees while working. A violation of this section shall be deemed a misdemeanor and upon conviction thereof punishable by a fine MAINTAIN THOSE MARGINS ALONGSIDE THEIR YARD TRACKS (EXCEPT DESIGNATED CLEAN-OUT AND REPAIR TRACKS) WHERE SUCH RAILROAD EMPLOYEES ARE REQUIRED TO WALK FREQUENTLY IN THE COURSE OF THEIR DUTIES, REASONABLY FREE FROM DEBRIS AND VEGETATION WHICH UNREASONABLY AFFECTS THE SAFETY OF SUCH EMPLOYEES WHILE WORKING. THIS SECTION SHALL BE ENFORCED BY THE COMMISSION UPON COMPLAINT AND AFTER DUE HEARING; VIOLATIONS TO BE

EXPLANATION: *Italics indicate new matter added to existing law.*

[Brackets] indicate matter stricken from existing law.

CAPITALS indicate amendments to bill.

Strike out indicates matter stricken out of bill.

Attachment 11

Walters Foundation
Affidavit and
Determination Letter

| THE WALTERS ART MUSEUM |

Affidavit of The Walters Art Museum Foundation, Inc. Regarding Supporting Organization Status

The undersigned, in order to assist the Foundation in determining The Walters Art Museum Foundation sub-classification as a supporting organization under section 509(a)(3) of the Internal Revenue Code (“Code”) and the Treasury Regulations, makes the following statement:

1. The Walters Art Museum Foundation (EIN 52-1194738) supports one organization: Trustees of the Walters Art Gallery (EIN 52-6002611).
2. The Walters Art Museum Foundation is a Type I supporting organization described in subsection of Code section 509(a)(3)(B)(i). The Walters Art Museum Foundation’s trustees are selected as follows: The members of the Board of Directors of the Walters Art Museum Foundation are appointed by the President of the Trustees of the Walters Art Gallery; who is and shall be, at all times, a member of the Board of Directors.
3. Attached hereto is a copy of The Walters Art Gallery Endowment Foundation’s **Articles of Incorporation** and a copy of the Articles of Amendment to change the name to The Walters Art Museum Foundation. The following provisions of this governing document establish The Walters Art Museum Foundation’s relationship with its supported organization: Item THIRD, SIXTH and SEVENTH.

The undersigned hereby affirms that the foregoing statements and any documents attached hereto are complete and accurate as of October 1, 2019.



Kathleen Basham
Chief Operating Officer
The Walters Art Museum Foundation



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
PO Box 2508
Cincinnati, OH 45201

Date: **FEB 18 2020**

WALTERS ART MUSEUM FOUNDATION INC
600 N CHARLIE ST
BALTIMORE, MD 21201-5118

Employer ID number:
52-1194738
Person to contact / ID number:
Hillary Moon
ID# 0203120
Contact telephone number:
1-877-829-5500
Form 990/990-EZ/990-N required:
Yes

Dear Applicant:

In your letter dated October 3, 2019, you requested reclassification of foundation status as a public charity.

Our records indicate you are tax exempt under IRC Section 501(c)(3). You're currently classified as a public charity described in IRC Section 509(a)(3).

Based on the information you provided, we determined you meet the requirements for classification as a public charity described in IRC Section 509(a)(3).

Specifically, we determined you're a Type I supporting organization under IRC Section 509(a)(3). A Type I supporting organization is operated, supervised, or controlled by one or more publicly supported organizations.

Because your tax-exempt status wasn't under consideration, you continue to be classified as an organization exempt from federal income tax under IRC Section 501(c)(3).

This letter could help resolve questions on your foundation status. Keep it for your records.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Letter 4425 (Rev. 1-2016)
Catalog Number 52256W

Attachment 12

Walters
Foundation Form
990

Form 990
 Department of the Treasury
 Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations) Do not enter social security numbers on this form as it may be made public.
 ▶ Go to www.irs.gov/Form990 for instructions and the latest information.

OMB No. 1545-0047
2019
Open to Public Inspection

A For the 2019 calendar year, or tax year beginning 07-01-2019, and ending 06-30-2020

B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return/terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization WALTERS ART MUSEUM FOUNDATION INC Doing business as Number and street (or P.O. box if mail is not delivered to street address) Room/suite 600 North Charles Street City or town, state or province, country, and ZIP or foreign postal code Baltimore, MD 212015185	D Employer identification number 52-1194738 E Telephone number (410) 547-9000 G Gross receipts \$ 644,243
F Name and address of principal officer: Kathleen Basham 600 N Charles Street Baltimore, MD 212015185		H(a) Is this a group return for subordinates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all subordinates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. (see instructions) H(c) Group exemption number ▶
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527		
J Website: ▶ thewalters.org		
K Form of organization: <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶		L Year of formation: 1979 M State of legal domicile: MD

Part I Summary

Activities & Governance	1 Briefly describe the organization's mission or most significant activities: To support and benefit the charitable and educational purposes of the institution known as the Trustees of the Walters Art Gallery, Inc. dba The Walters Art Museum.		
	2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets.		
	3 Number of voting members of the governing body (Part VI, line 1a)	3	3
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	3
	5 Total number of individuals employed in calendar year 2019 (Part V, line 2a)	5	0
	6 Total number of volunteers (estimate if necessary)	6	3
	7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
	b Net unrelated business taxable income from Form 990-T, line 39	7b	0
Revenue	8 Contributions and grants (Part VIII, line 1h)	Prior Year	Current Year
	9 Program service revenue (Part VIII, line 2g)	0	0
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	114,315	60,168
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	0	0
	12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	114,315	60,168
Expenses	13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)	133,404	128,484
	14 Benefits paid to or for members (Part IX, column (A), line 4)	0	0
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	0	0
	16a Professional fundraising fees (Part IX, column (A), line 11e)	0	0
	b Total fundraising expenses (Part IX, column (D), line 25) ▶ 0		
	17 Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	0	0
	18 Total expenses. Add lines 13-17 (must equal Part IX, column (A), line 25)	133,404	128,484
	19 Revenue less expenses. Subtract line 18 from line 12	-19,089	-68,316
Net Assets or Fund Balances	20 Total assets (Part X, line 16)	Beginning of Current Year	End of Year
	21 Total liabilities (Part X, line 26)	2,686,603	2,218,573
	22 Net assets or fund balances. Subtract line 21 from line 20	0	0
		2,686,603	2,218,573

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Signature of officer Kathleen Basham Chief Operating Officer Type or print name and title	2020-11-30 Date
-------------------------------------------------------------------------------------------------	--------------------

Sign Here	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
Paid Preparer Use Only	Firm's name ▶	Firm's EIN ▶		Phone no.	
	Firm's address ▶	AFSCME000040			

May the IRS discuss this return with the preparer shown above? (see instructions) Yes No

Part III Statement of Program Service Accomplishments

Check if Schedule O contains a response or note to any line in this Part III

1 Briefly describe the organization's mission:

The Walters Art Museum brings art and people together for enjoyment, discovery, and learning. We strive to create a place where people of every background can be touched by art. We are committed to exhibitions and programs that will strengthen and sustain our community.

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? Yes No

If "Yes," describe these new services on Schedule O.

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? Yes No

If "Yes," describe these changes on Schedule O.

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a (Code:) (Expenses \$ 128,484 including grants of \$ 128,484) (Revenue \$ 0)
To support the Trustees of the Walters Art Gallery, Inc. (dba The Walters Art Museum), a related organization.

4b (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4c (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4d Other program services (Describe in Schedule O.)
(Expenses \$ 0 including grants of \$ AFSCME000041 0) (Revenue \$ 0)

4e Total program service expenses ▶ 128,484

Part IV Checklist of Required Schedules

		Yes	No
1	Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? <i>If "Yes," complete Schedule A</i>	Yes	
2	Is the organization required to complete <i>Schedule B, Schedule of Contributors</i> (see instructions)?		No
3	Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? <i>If "Yes," complete Schedule C, Part I</i>		No
4	Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? <i>If "Yes," complete Schedule C, Part II</i>		No
5	Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues, assessments, or similar amounts as defined in Revenue Procedure 98-19? <i>If "Yes," complete Schedule C, Part III</i>		No
6	Did the organization maintain any donor advised funds or any similar funds or accounts for which donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? <i>If "Yes," complete Schedule D, Part I</i>		No
7	Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas, or historic structures? <i>If "Yes," complete Schedule D, Part II</i>		No
8	Did the organization maintain collections of works of art, historical treasures, or other similar assets? <i>If "Yes," complete Schedule D, Part III</i>		No
9	Did the organization report an amount in Part X, line 21 for escrow or custodial account liability; serve as a custodian for amounts not listed in Part X; or provide credit counseling, debt management, credit repair, or debt negotiation services? <i>If "Yes," complete Schedule D, Part IV</i>		No
10	Did the organization, directly or through a related organization, hold assets in temporarily restricted endowments, permanent endowments, or quasi endowments? <i>If "Yes," complete Schedule D, Part V</i>		No
11	If the organization's answer to any of the following questions is "Yes," then complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable.		
a	Did the organization report an amount for land, buildings, and equipment in Part X, line 10? <i>If "Yes," complete Schedule D, Part VI.</i>		No
b	Did the organization report an amount for investments—other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part VII</i>	Yes	
c	Did the organization report an amount for investments—program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part VIII</i>		No
d	Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? <i>If "Yes," complete Schedule D, Part IX</i>		No
e	Did the organization report an amount for other liabilities in Part X, line 25? <i>If "Yes," complete Schedule D, Part X</i>		No
f	Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48 (ASC 740)?	Yes	
12a	Did the organization file a separate, independent audited financial statements for the tax year? <i>If "Yes," complete Schedule D, Parts XI and XII</i>		No
b	Was the organization included in consolidated, independent audited financial statements for the tax year? <i>If "Yes," and if the organization answered "No" to line 12a, then completing Schedule D, Parts XI and XII is optional</i>	Yes	
13	Is the organization a school described in section 170(b)(1)(A)(ii)? <i>If "Yes," complete Schedule E</i>		No
14a	Did the organization maintain an office, employees, or agents outside of the United States?		No
b	Did the organization have aggregate revenues or expenses of more than \$10,000 from grantmaking, fundraising, business, investment, and program service activities outside the United States, or aggregate foreign investments valued at \$100,000 or more? <i>If "Yes," complete Schedule F, Parts I and IV</i>		No
15	Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or other assistance to or for any foreign organization? <i>If "Yes," complete Schedule F, Parts II and IV</i>		No
16	Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or other assistance to or for foreign individuals? <i>If "Yes," complete Schedule F, Parts III and IV</i>		No
17	Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? <i>If "Yes," complete Schedule G, Part I</i> (see instructions)		No
18	Did the organization report more than \$15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? <i>If "Yes," complete Schedule G, Part II</i>		No
19	Did the organization report more than \$15,000 of gross income from gaming activities on Part VIII, line 9a? <i>If "Yes," complete Schedule G, Part III</i>		No
20a	Did the organization operate one or more hospital facilities? <i>If "Yes," complete Schedule H</i>		No
b	If "Yes" to line 20a, did the organization attach a copy of its audited financial statements to this return? AFSCME000042		
21	Did the organization report more than \$5,000 of grants or other assistance to any domestic organization or domestic government on Part IX, column (A), line 1? <i>If "Yes," complete Schedule I, Parts I and II</i>	Yes	

Part IV Checklist of Required Schedules (continued)

Table with 3 columns: Question ID, Question Text, and Yes/No columns. Rows include questions 22 through 38 regarding tax-exempt bond issues, excess benefit transactions, and related party transactions.

Part V Statements Regarding Other IRS Filings and Tax Compliance

Check if Schedule O contains a response or note to any line in this Part V []

Table with 3 columns: Question ID, Question Text, and Yes/No columns. Rows include questions 1a, 1b, and 1c regarding Form 1096, Forms W-2G, and backup withholding rules.

AFSCME000043

Part V Statements Regarding Other IRS Filings and Tax Compliance (continued)

Main form area containing questions 2a through 16, with sub-questions and input fields. Includes a '0' in box 2a and 'No' in various response boxes.

AFSCME000044

Part VI Governance, Management, and Disclosure For each "Yes" response to lines 2 through 7b below, and for a "No" response to lines 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O. See instructions. Check if Schedule O contains a response or note to any line in this Part VI

Section A. Governing Body and Management

Table with 3 columns: Question, Yes, No. Rows include: 1a Enter the number of voting members... 1b Enter the number of voting members... 2 Did any officer, director, trustee... 3 Did the organization delegate control... 4 Did the organization make any significant changes... 5 Did the organization become aware... 6 Did the organization have members... 7a Did the organization have members... 7b Are any governance decisions... 8 Did the organization contemporaneously document... 8a The governing body? 8b Each committee... 9 Is there any officer, director, trustee...

Section B. Policies (This Section B requests information about policies not required by the Internal Revenue Code.)

Table with 3 columns: Question, Yes, No. Rows include: 10a Did the organization have local chapters... 10b If "Yes," did the organization have written policies... 11a Has the organization provided a complete copy... 11b Describe in Schedule O the process... 12a Did the organization have a written conflict... 12b Were officers, directors, or trustees... 12c Did the organization regularly and consistently... 13 Did the organization have a written whistleblower... 14 Did the organization have a written document... 15 Did the process for determining compensation... 15a The organization's CEO... 15b Other officers or key employees... 16a Did the organization invest in, contribute... 16b If "Yes," did the organization follow a written...

Section C. Disclosure

Table with 2 columns: Question, Answer. Rows include: 17 List the states with which a copy of this Form 990 is required to be filed MD 18 Section 6104 requires an organization to make its Form 1023... 19 Describe in Schedule O whether (and if so, how) the organization made its governing documents... 20 State the name, address, and telephone number of the person who possesses the organization's books and records: Michelle RhodesBrown 600 North Charles Street Baltimore, MD 212015185 (410) 547-9000

Attachment 13

January 2023
Baltimore Circuit
Court Decision

WALTERS WORKERS UNITED,
COUNCIL 67, AFSCME, AFL-CIO, *et*
al.,

Plaintiffs,

v.

THE TRUSTEES OF THE WALTERS
ART GALLERY, INC., *et al.*,

Defendants.

IN THE
CIRCUIT COURT

FOR

BALTIMORE CITY

Case No. 24-C-22-003989

MEMORANDUM OPINION AND ORDER

This case arises under the Maryland Public Information Act (“PIA”), Md. Code Ann., General Provisions (“GP”) §§ 4-101 to 4-601. On September 12, 2022, Plaintiffs American Federation of State, County and Municipal Employees, AFL-CIO (“AFSCME”) and Walters Workers United/AFSCME Council 67 filed suit in this Court against Defendants Trustees of the Walters Art Gallery, Inc., Guy E. Flynn, President of the Board of Trustees, and Julia Marciari-Alexander, Director of the Walters Art Museum (“the Walters”). (Docket Entry No. 1.) Plaintiffs amended their complaint to correct the name of Defendant Trustees of the Walters Art Gallery, Inc. (Docket Entry No. 5.) Plaintiffs’ suit seeks, *inter alia*, an order compelling Defendants to produce records requested by Plaintiffs via email in May 2022. (Pl.’s First Am. Compl. (“FAC”) ¶ 23.) Contemporaneously with the filing of their Complaint, Plaintiffs filed a motion for summary judgment arguing that the case presents no genuine disputes of material fact and they are entitled to judgment as a matter of law. (Docket Entry No. 2.)

23 18

Defendants filed an answer to Plaintiffs' FAC and a cross-motion for summary judgment. (Docket Entry Nos. 5/1 and 13.) The parties appeared remotely before the Court for a hearing on the motions for summary judgment on November 30, 2022. For the reasons set forth below, the Court will grant Plaintiffs' motion for summary judgment and deny Defendants' cross-motion for summary judgment.

Facts and Procedural Background

The undisputed facts contained in the record reveal that on May 11, 2022, Erin Riordan, an employee of AFSCME, sent six emails to Ms. Marciari-Alexander and Kate Burgin, representatives of the Walters. (Pl.'s Mem., Ex. H.) The emails requested copies of numerous categories of records alleged to be in the possession of the Walters under the PIA. *Id.* Ms. Riordan's requests included tax documents or filings of the Walters, contracts between the Walters and private counsel, documents reflecting dollar amounts paid to private counsel by the Walters, contracts between the Walters and any individuals related to management of labor relations, emails or communications from Ms. Marciari-Alexander to Board of Trustee members regarding union or collective bargaining activities, minutes of Board of Trustee meetings, and emails or communications from Ms. Marciari-Alexander to Baltimore City leadership. *Id.* By email dated June 8, 2022, Ms. Marciari-Alexander responded by stating that the Defendants were not subject to the PIA. (Pl.'s Mem., Ex. H.)

The history of the Walters is set forth extensively in the parties' submissions. The Court will summarize it here. Upon his death in 1931, Henry Walters bequeathed his art gallery, including all its contents and two buildings to the Mayor

and City Council of Baltimore for the benefit of the public. (Marciari-Alexander Aff., Ex. 2.) On March 8, 1933, the Mayor and City Council adopted Ordinance No. 400 (the "1933 Ordinance") to carry out the wishes of Mr. Walters. (Def.'s Mem., Appendix A.) The 1933 Ordinance recognized that Mr. Walters left his art gallery and property to the City and that he had established an endowment with the City as beneficiary. *Id.* It mandated that the art gallery and property be used for the benefit of the public. *Id.* at Section 2. The 1933 Ordinance further established the Board of Trustees, and designated the Mayor and President of the City Council as permanent members. *Id.* at Section 3.

On April 5, 1933, the General Assembly enacted legislation "to incorporate the Trustees of the Walters Art Gallery, to provide for the management of said Corporation of the real properties and art treasures and income given to the Mayor and City Council of Baltimore" under Mr. Walters's last will and testament. 1933 Md. Laws Ch. 217 (Def.'s Mem., Appendix B.) Chapter 217 established the Trustees of the Walters Art Gallery as a body corporate. *Id.* It provided the Board of Trustees with the authority to exercise control over the "properties and contents" of the Walters Art Gallery and over the expenditure of income from the endowment fund for the benefit of the public. *Id.* at Section 2. The express intent of the General Assembly set forth in Chapter 217 provided that "the corporation created by this Act shall be the agency of the Mayor and City Council of Baltimore through which the directions and intent of Henry Walters shall be obeyed, and his objects realized." *Id.* Chapter 217 gave the Board of Trustees authority to "make, alter and repeal by-laws;

to fill vacancies in the membership of the Board, and to provide, in such by-laws, for terms of its members, except those named ex-officio; provided that such terms shall conform with any ordinance of the Mayor and City Council of Baltimore" *Id.* at Section 4.

The current ordinance governing the Walters is set forth in Article 18, Subtitle 14 of the City Code. It provides that the Walters, the property, and its contents shall be used for the benefit of the public as directed in the last will and testament of Mr. Walters. Baltimore City Code Art. 18, § 14-2. It recognizes that the General Assembly established the Board of Trustees as a body corporate. Baltimore City Code Art. 18, § 14-6. It provides for the composition of the Board of Trustees, including the permanent membership of the Mayor and the President of the City Council. Baltimore City Code Art. 18, § 14-7. It also provides the powers and duties of the Board, including use of the buildings and contents bequeathed by Mr. Walters, the receipt and use of endowment fund income, and the proceeds of property distributions. Baltimore City Code Art. 18, § 14-8. Finally, the ordinance requires the Board of Trustees to submit annual reports to the City, restricts the sale or disposition of any work of art without the consent of the Mayor and City Council, and prohibits amendments to the Act of Incorporation without consent of the Mayor and City Council. Baltimore City Code Art. 18, § 14-9 – 14-12.

The Walters currently operates five buildings in Baltimore City and has expanded the original art collection by 12,000 objects of art. (Marciari-Alexander Aff. ¶¶ 6-7.) The Board of Trustees has grown to 37 members. (Marciari-Alexander

Aff. ¶ 10.) Its current endowment is two-thirds attributable to endowments owned by the Walters and one-third attributable to the endowment created by Mr. Walters. (Marciari-Alexander Aff. ¶ 12.) The City contributes approximately 15% of the operating expenses of the Walters, including allowing employees of the Walters to participate in the City's health benefits plan and paying the employer share for those benefits and reimbursing the Walters for the employer share of payroll taxes. (Marciari-Alexander Aff. ¶¶ 16-19.) The remaining expenses are funded with endowment income and private funds raised by the Board of Trustees. (Marciari-Alexander Aff. ¶ 15.)

Whether the Walters is subject to the PIA is the sole issue presented before the Court in the parties' summary judgment motions.

Standard of Review

Summary judgment is appropriate when there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. Md. Rule 2-501. The Court must review "the record in the light most favorable to the non-moving party and construe any reasonable inferences that may be drawn from the facts against the moving party." *CX Reinsurance Company Limited v. Johnson*, 481 Md. 472, 484 (2022) (quoting *Rossello v. Zurich Am. Ins. Co.*, 468 Md. 92, 103 (2020)). With respect to the PIA, summary judgment is appropriate where there is no disputed issues of material fact and no fact finding to be completed by the circuit court. *Amster v. Baker*, 453 Md. 68, 75 (2017).

Discussion

The PIA provides a broad right of access to records in the possession of the government. GP § 4-103(a). It must be construed in favor of allowing inspection of public records “with the least cost and least delay” to the requester. GP § 4-103(b). The PIA defines “public record” to include a record that is “made by a unit or instrumentality of the State or of a political subdivision or received by the unit or instrumentality in connection with the transaction of public business.” GP § 4-101(h)(1).

The statutory language makes clear that the PIA applies to any “unit or instrumentality of the State or of a political subdivision.” *Id.* The language of GP § 4-101(h) is “intentionally expansive” and “must be interpreted broadly to effectuate the broad remedial purposes of the PIA.” 106 Md. Op. Atty. Gen. 100 (2021); Maryland Public Information Manual (“MPIA Manual”), Office of the Attorney General (17th Ed. July 2022) at 1-3. The Supreme Court of Maryland has relied on the ordinary definition of “instrumentality” in interpreting the scope of the PIA. *City of Baltimore Dev. Corp. v. Carmel Realty Assocs.*, 395 Md. 299, 333 (2006). In *City of Baltimore Dev. Corp.* the Supreme Court of Maryland set forth the definition of instrumentality as follows:

Instrumentality is defined as “the quality or state of being instrumental” and instrumental is defined as “serving as a means, agent, or tool.” Merriam Webster's Collegiate Dictionary 607 (10th ed.1998). Instrumentality is also defined as: “1. A thing used to achieve an end or purpose. 2. A means or agency through which a function of another entity is accomplished, such as a branch of a governing body.” Black's Law Dictionary 814 (8th ed.2004).

City of Baltimore Dev. Corp., 395 Md. at 333.

While no one test can determine whether an entity is a “unit or instrumentality” of the government for purposes of the PIA, the Maryland appellate courts have provided guidance on the factors that a court should use in the analysis. The factors are not an exhaustive list. The Supreme Court of Maryland has instructed that “all aspects” of the relationship must be assessed. *A.S. Abell Pub. Co. v. Mezzanote*, 297 Md. 26, 35 (1983).

Whether an entity is created by the government and serves a public purpose is a factor in determining whether the entity is an instrumentality of the government. *A.S. Abell Pub. Co.*, 297 Md. at 35. In *A.S. Abell Pub. Co.*, the Supreme Court of Maryland stressed the importance of the fact that the Maryland Insurance Guaranty Association (“MIGA”) was an entity created by the General Assembly and was, therefore, subject to legislative control. *A.S. Abell Pub. Co.* 297 Md. at 37. In concluding that MIGA was an instrumentality of the State subject to the PIA, the Court additionally reasoned that it was created for a public purpose. *A.S. Abell Pub. Co.* 297 Md. at 37-38.

The Supreme Court of Maryland also relied on the public purpose factor in finding that the University of Maryland Medical System Corporation (“UMMS”) was an instrumentality of the State for purposes of the PIA despite its conclusion that UMMS was exempted from the PIA. *Napata v. University of Maryland Medical System Corp.*, 417 Md. 724, 737 (2011). In *Napata*, the Supreme Court of Maryland found that UMMS served a public purpose because it provided health care services to

the local community and served as teaching hospital to students. *Id.* It differentiated UMMS from a private hospital as its annual contracts required approval by the Regents of the University and the Regents and the Board of Public Works had authority to dissolve it if it was not fulfilling its purpose. *Id.*

Whether an entity serves a traditional public function is another factor used in analyzing whether the entity is an instrumentality of the government. *City of Baltimore Dev. Corp.*, 395 Md. at 335. In *City of Baltimore Dev. Corp.*, the Supreme Court of Maryland stated that the Baltimore Development Corporation (“BDC”) had authority “to prepare and adopt Urban Renewal Plans, Planned Unit Developments, Industrial Retention Zones, and Free Enterprise Zones[.]” *Id.* It concluded that these were traditional public functions supporting that it was an instrumentality of the City of Baltimore. *Id.*

One of the most important factors in determining whether an entity is an instrumentality of the government for purposes of the PIA is the extent to which the entity is subject to government control. *Andy's Ice Cream, Inc. v. City of Salisbury*, 125 Md. App. 125, 141 (1999). In assessing the control factor, the Maryland appellate courts have looked at whether the government has veto power over the entity’s proposals, whether the entity is required to submit its budget to the government for review, and whether the entity’s members are appointed by a governmental body or executive. *Id.* Another important piece of the control factor is whether the government has the authority to dissolve the entity. *Napata*, 417 Md. at 737.

Finally, whether an entity receives public funding, whether there is government representation of the entity's board, and whether an entity is entitled to sovereign immunity are factors in determining whether an entity is an instrumentality of the government for purposes of the PIA. The fact that city officials were permanent members of the BDC's Board, that the BDC received a substantial portion of its budget from the City, and that it enjoyed tax exempt status were factors supporting the Supreme Court of Maryland's conclusion that the BDC was an instrumentality of the State. *City of Baltimore Dev. Corp.*, 395 Md. at 335. The fact that MIGA held special status through its exemption from State and local taxes and its immunity from liability for actions in performance of its duties supported the Supreme Court of Maryland's conclusion that it was an instrumentality of the State. *A.S. Abell Pub. Co.*, 297 Md. at 38.

Applying all of these factors here and construing the "intentionally expansive" language of the PIA broadly, the Court concludes that the Walters is an instrumentality of the government for purposes of the PIA. Mr. Walters expressly left his art collection to the City of Baltimore for "the benefit of the public." (Marciari-Alexander Aff., Ex. 2.) The Walters was created to carry out his public purpose with an obligation that the art gallery and property be used for the benefit of the public. (Def.'s Mem., Appendix A.) Moreover, whether museums serve traditional public functions is immaterial here as Mr. Walters specifically designated that it was his will for the Walters to carry out a public function. The City Code expressly implements this by providing that the "Walters Art Gallery and property at 5 West

Mount Vernon Place, and the contents of the buildings, shall be used for the benefit of the public.” Baltimore City Code Art. 18, § 14-2.

While the Walters has characteristics of a private entity, significant control is vested in the Mayor and City Council of Baltimore. The Mayor and the President of the City Council of Baltimore are designated as permanent members of the Board of Trustees. Baltimore City Code Art. 18, § 14-7(a)(1) and (2). The Trustees are required to report annually on their activities and operations by submitting a report to the Board of Estimates – which is responsible for carrying out the fiscal policy of the City – and to each member of the City Council. Baltimore City Code Art. 18, § 14-9. No amendments to the Act of Incorporation may be made without consent of both the Mayor and City Council of Baltimore. Baltimore City Code Art. 18, § 14-12.

Moreover, the Trustees are prohibited from selling or disposing of any work of art without the consent of the Mayor and City Council. Baltimore City Code Art. 18, § 14-11(a). Even if art is to be loaned by the Walters, the Trustees are required to provide prior notice to the Mayor and City Council of Baltimore and the Board of Estimates. Baltimore City Code Art. 18, § 14-11(b). A copy of the bylaws is required to be filed with the Department of Legislative Reference and “accessible at all times to the public.” Baltimore City Code Art. 18, § 14-12(b).

The City funds benefits for eligible employees and retirees of the Walters. While it only contributes 15% of the total operating expenses of the Walters, employees of the Walters are permitted to participate in the City’s health benefits plan with the City paying the employer share of the benefits and reimbursing the

Walters for the employer share of payroll taxes. (Marciari-Alexander (Marciari-Alexander Aff. ¶¶ 16-19.) This arrangement establishes a further connection between the Walters and City government weighing in favor of the conclusion that the Walters is an instrumentality of the government.

It is true that the majority of members of the Board of Trustees are not government officials. Baltimore City Code Art. 18, § 14-7. However, the fact that the City is not exercising predominant control is not determinative. *See Napata*, 417 Md. at 734 (complete control is not necessary to determine that an entity is an instrumentality of the government under the PIA). The City Code makes clear that the City retains ultimate control over the Walters as the Trustees are prohibited from amending the charter without the consent of the Mayor and City Council. Baltimore City Code Art. 18, § 14-12. Moreover, the Walters argument that it exercises complete control over its budget, expenditures, contracts, and operations without oversight from the City is not accurate. The Walters is required to submit an annual report of its activities and operations to the Board of Estimates and every member of the City Council. Baltimore City Code Art. 18, § 14-9. By requiring the report to be submitted not just to the City Council generally, but to every member individually, it is apparent that more oversight was intended. These factors and the General Assembly's requirement that the PIA be broadly interpreted lead to one conclusion – that the Walters is subject to the PIA as an instrumentality of the government.

The Court recognizes that there are factors weighing in favor of a finding that the Walters is not an instrumentality of the government. The overwhelming majority

of the Board of Trustees is comprised of non-government members and approximately 85% of its operating expenses comes from non-government funds. (Marciari-Alexander Aff. ¶¶ 16-19.) There is nothing in the City Code or in the acts of the General Assembly setting forth the government's power to dissolve the Walters. Additionally, the Walters is not listed in the definition of "local government" for purposes of the Local Government Tort Claims Act suggesting that it would not be entitled to sovereign immunity protections. Md. Code Ann., Cts. & Jud. Proc. § 5-301(d). While these factors support a conclusion that the Walters is not an instrumentality of the government, they cannot overcome the factors favoring instrumentality and the fact that the Walters was created for the benefit of the public.

Nor is Defendants' reference to opinions of the City solicitor persuasive to the Court's analysis. The sole question before the Court concerns whether the Walters is subject to the broad reach of the PIA. For example, the City Solicitor's opinion with respect to whether the Walters is an agency of Baltimore City within the meaning of the City Charter subjecting it to competitive procurement requirements involves a different legal question. See 59 Op. City Sol. 372 (1967) (Def.'s Mem., Appendix E.) The PIA entitles the public to broad access to the affairs of the government, which includes instrumentalities of the government. GP § 4-101(h)(1). Mr. Walters through his will and subsequent legislation enacted by the City and the Maryland General Assembly make clear that the Walters is to be used "for the benefit of the public." Restricting the public's access to information about the operations of the Walters

through a finding that the Walters is not subject to the PIA is contrary to both Mr. Walters' last will and testament and the legislation implementing his wishes.

The Walters has defended this action on its position that it is not subject to the PIA. Whether the specific documents requested by Plaintiffs are subject to disclosure under the PIA has not been addressed. The PIA sets forth both mandatory and discretionary exemptions for certain categories of records. Moreover, a custodian may charge a reasonable fee for records. GP § 4-206. Given the Court's ruling, the Walters shall be given the opportunity to respond to the Plaintiffs' request pursuant to the PIA. The Court will direct that Defendants respond to the requests within thirty days from entry of this Order in accordance with GP § 4-203.

A separate order follows.

1 / 11 / 2023
DATE

Judge's Signature appears
on the original document

WALTERS WORKERS UNITED,
COUNCIL 67, AFSCME, AFL-CIO, *et al.*,

Plaintiffs,

v.

THE TRUSTEES OF THE WALTERS
ART GALLERY, INC., *et al.*,

Defendants.

IN THE
CIRCUIT COURT

FOR

BALTIMORE CITY

Case No. 24-C-22-003989

ORDER

For the reasons set forth in the foregoing Memorandum Opinion, it is this 11TH
day of January 2023, hereby

ORDERED that Plaintiffs' motion for summary judgment is **GRANTED**; and
it is further

ORDERED that Defendants' cross motion for summary judgment is
DENIED; and it is further

ORDERED that Defendants shall respond to Plaintiffs' requests for records
within thirty (30) days from entry of this Order in accordance with the Maryland
Public Information Act, Md. Code Ann., General Provisions §§ 4-101 to 4-601.

Judge's Signature appears
on the original document

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WALTERS WORKERS UNITED,
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