

RESIDENT CURATORSHIP INFORMATION

YEARLY ACCOUNTS

Your curatorship agreement with the State of Delaware Division of Parks and Recreation requires you to submit annual accounts of the expenses you incur with your curatorship restoration. Your submittals will be acknowledged in writing. It is important that these accounts be submitted and acknowledged to verify that you are complying with the terms of your agreement and to provide the Department of Natural Resources and Environmental Control with a comprehensive record of the value of curatorships to the state.

Attached is the preferred format for your submittals. You do not need to submit copies of receipts, but you should keep all receipts for possible audit by the state. Arrange your expenses chronologically throughout the calendar year. Enter the date of each expense in the first column, along with a note as to what proof you have that you paid the expense (check number, paid receipt number, etc.). In the middle column enter a brief description of the materials or services purchased. In the right column enter the amount of each expense under the appropriate subheading. The three subheadings are: Materials and Labor, which cover expenses for materials and labor which actually go into your restoration; Overhead, which covers ancillary expenses like special tools purchased for the restoration, or phone, utility, and other special fees; and Operation and Maintenance, which includes expenses you incur to maintain your curatorship property, in accordance with your agreement.

Many curators keep track of their personal labor. Inasmuch as this represents value received by the state, we have included a fourth subheading, Donated Labor, for this category and it will be acknowledged. Keep an hourly tally of your personal labor. Assign it a reasonable value. Simple, unskilled work, such as hauling trash, would have a comparatively low value; semi-skilled work, such as painting, would have a higher value; specialized trade work, like hanging drywall or finish carpentry, would have the highest value. There are standard manuals to guide you in this.

Submit your annual accounts as early in the following calendar year as possible.

RESIDENT CURATORSHIP INFORMATION

CRITICAL AREAS POLICY AND ITS APPLICABILITY TO CURATORSHIPS

Curatorship Agreements require curators to obtain all necessary licenses, permits, inspections, and approvals for the work they do and holds them responsible for compliance with all applicable federal, state, and local laws and policies.

If curator(s) are planning on clearing an area or significantly changing or altering the landscape of the curatorship premises, the curator(s) are responsible for contacting the Natural Areas Coordinator prior to the commencement of such work. Adherence to this policy is especially critical if your curatorship contains, or is near, non-tidal wetlands (marshes, bogs, swamps and streams that are not influenced by tidal waters), or if it contains or is near habitat that shelters threatened and endangered species, or provides significant plant and wildlife habitat that shelters threatened and endangered species, or provides significant plant and wildlife habitat, or is near waters that spawn anadromous (migrating) fish. Concerns for these areas include runoff of yard wastes and fertilizer; installation of impervious ground surface (driveways, walks, etc.); disturbance of land and vegetation (including tree removal); any agricultural practices; any forestry practices; and new construction. There may be additional activities which are affected.

If you are unsure whether your plans will come under any critical areas policy, you are urged to seek the guidance of the Natural Areas Coordinator.

Natural Areas Coordinator:
Robert L. Line
Natural Areas Program Coordinator
89 Kings Highway
Dover, DE 19901
(302) 739-3423
FAX (302) 739-3817
Email: rline@state.de.us

RESIDENT CURATORSHIP INFORMATION

HEALTH HAZARDS POSED BY RESTORATION

Restoring old buildings can expose you to hazardous and toxic substances. Chief among them is lead, which is present in many paints used before 1977. Scraping and sanding, or burning, lead-based paint can expose you to lead-laden dust and vapors. Both can enter your blood through the lungs, and lead dust can enter through the digestive tract. Moreover, a person can carry lead dust in his or her hair or clothing and expose others who were not present at the source of the contaminant. Lead poisoning in adults can result in malaise, short-term memory loss, dizziness, headaches, weight loss, numbness, abdominal pain, impotence, irritability, irrational behavior, insomnia, and anemia. Children and fetuses can experience additional symptoms: severe psychological disorders, kidney dysfunction, stunted growth, and impaired mental development. Your doctor can give you a simple blood test to determine if you have accumulated a dangerous level of lead in your system, and can recommend treatment. Also, the State of Delaware Department of Health and Social Services Division of Public Health (302) 995-8693 can give you further advice on the health implications of lead poisoning and on methods of mitigation. They can also advise you on getting your structure(s) tested for lead.

Other harmful substances found in historic restoration environments include, but are not limited to, the following: asbestos, methylene chloride, methanol, benzene, toluene, mineral spirits, turpentine, plaster dust (alkali), epoxies, paraffin wax, pentachlorophenol, creosote, chromated copper arsenate, wood dust, and cementitious products (alkali).

CURATORS ARE STRONGLY ADVISED TO KNOW WHAT HARMFUL AND TOXIC SUBSTANCES MAY BE PRESENT IN THEIR RESTORATION ENVIRONMENTS, AND TO TAKE PROPER STEPS TO MITIGATE THE EFFECTS OF THOSE SUBSTANCES. THE MITIGATION OF SOME SUBSTANCES, SUCH AS LEAD AND ASBESTOS, IS SUBJECT TO FEDERAL, STATE, AND/OR LOCAL LICENSING AND REGULATION, AND CURATORS SHOULD BE FAMILIAR WITH THOSE REQUIREMENTS.

RESIDENT CURATORSHIP INFORMATION

INSURANCE

The curatorship property you are restoring for the State of Delaware is insured by the State against hazard loss (fire, flood, storm, earthquake, etc.) under the state's self-insurance trust fund. You should be aware of three main points:

First, the Division of Parks and Recreation (DPR) is the indemnified party, not you the curator. This is because DPR, not you, owns the property as well as all the improvements you make to it, and is therefore the party with the insurable interest. It is DPR's responsibility to file a claim in the event of partial or total loss of any or all of the curatorship structures. Such a claim is subject to a \$500 deductible amount, payable by DPR. In the event that DPR can not pay the deductible amount, you will have the option to pay it. This is a good deal for you, coverage with no premium and only a \$500 deductible.

Second, this coverage extends only to the structures of the curatorship premises and does not extend to personal property owned by you, or others, which may be lost or damaged. It also does not provide liability for bodily injury to any person. And it does not provide for temporary accommodations for you during repair or reconstruction of damage caused by hazard. However, these are all areas of coverage which you should be able to purchase yourself with a tenant's policy from a reputable insurance broker or company (this matter gets more treatment below). Moreover, your curatorship agreement requires you to have this type of coverage. If your personal property contains items of unusual value, such as antique furniture, you should have special riders on your tenant's policy to cover such items' full value.

Third, the extent to which you may have an insurable interest in the structures themselves – and thus the extent to which you yourself may be able to purchase insurance against hazard loss – has not been fully determined. This is due to the completely unique character of the curatorship program. The question is, do you the curator have any insurable interest in the structure(s)?

All curatorship agreements have language in them which may give curators an insurable interest:

“The Curators shall be responsible for the Curatorship structures being in the best condition, to which they are restored, at such time as the Curatorship terminates, normal wear and tear excepted;” and,

“The Curators acknowledge that they understand that the Curatorship structures and all improvements the Curators make to

the structures as part of their gift to the State are, as real property owned by the State, covered against loss by fire, flood, or other hazard by the State self-insurance trust fund. The State may, but is not required to, rebuild State-owned structures that are damaged or destroyed by fire or otherwise. The Curators may seek to purchase, at their sole expense, additional hazard insurance for the Curatorship structures provided that any such policy shall name the State as co-insured.”

The intent of these sections is to give the curators grounds to convince an insurer that curators do, in fact, have an insurable interest in the structure(s) and all the improvements they make. Unresolved will be the issue of double insurance and who pays, the State’s self-insurance trust or your insurer, in the event of a loss.

From a realistic standpoint, should there be a total loss of a structure, its replacement, no matter who pays for it, is not likely to be a totally accurate reproduction of the lost structure. It is more likely to be a “functional equivalent,” that is, a new structure similar in size, proportion, and general construction finishes as the lost structure, but not a 100% accurate reproduction.

It would be to your advantage to have thorough and up-to-date documentation as to the condition, extent, type of construction and other information, on your curatorship structure(s), in the event of a loss, in order to demonstrate to an insurance adjuster how much reconstruction is justified. Photographs, measured drawings, receipts of work performed, even videos, are all recommended means of documentation. This information should be stored off-premises so as not to be lost if a structure is lost.

The general intent of DPR, in the event of a partial (say no more than 60%) hazard loss, would be to see the structure(s) restored as nearly as possible to the condition that existed at the time of loss and to resume the curatorship with the same curator(s). In the event of total loss, DPR may opt for a “functional equivalent” replacement, but you should be aware that DPR may opt for no replacement at all.

There are several recommendations you may wish to consider when you shop for insurance. First is the uniqueness of the curatorship program and the extent to which that uniqueness may affect your insurability. Many of the large insurance carriers who offer low rates are geared to insuring people with conventional living arrangements. Their standard tenant’s policy may not be suitable to curators. You may wish to consult with an independent broker who is willing to tailor a policy to your needs. And you should be prepared to pay higher rates. Be sure to include personal liability coverage and alternative accommodations in this policy.

Second, you should discuss with your broker the extent to which you can purchase coverage for the betterments and improvements. Standard betterments and improvements policies just cover things like paint and wallpaper that a tenant puts up, usually not to exceed 10% of the real value of the covered property. You need coverage for the far more substantial improvements you make, and such coverage is available, but you need to be specific when you discuss the matter with an insurance agent or broker. This may be the best way for you to protect your financial commitment to the curatorship structures.

Third, you should, of course, take reasonable steps to mitigate against hazard loss, and theft, by installing smoke detectors, fire extinguishers, intrusion alarms and the like. This not only affords you greater protection, but may increase your insurability and may decrease your rates.

Your curatorship agreement requires you to have a tenant's policy protecting your personal possessions and giving you liability coverage. This policy can also provide alternative accommodations in case of loss to your curatorship property. You should submit annual copies of certificates of insurance, along with your annual accounts.

The statements, representations, and recommendations set down in this circular express a good faith effort to provide to Resident-Curators the best advice possible under the unique conditions of the curatorship program. They should in no way be construed as representing contractual obligations on the part of the State of Delaware.

RESIDENT CURATORSHIP INFORMATION

SEDIMENT CONTROL

By terms of your Curatorship Agreement, you must obtain all necessary licenses, permits, inspections, and approvals necessary for the work you do. You are also held responsible for compliance with all applicable federal, state, and local laws.

It is important for you to be aware that any person or entity who clears, grades or otherwise disturbs an area on state property exceeding 5,000 square feet surface area, or involving more than 100 cubic yards (equal to ten dump truck loads) of earth, must prepare and implement a sediment runoff mitigation plan that has been approved by the Department of Natural Resources and Environmental Control, or by your county's sediment control agency (if the county has one).

Also, it is unlawful for anyone to "add, introduce, leak, spill, or otherwise emit soil or sediment into waters of the state or to place soil or sediment in a condition or location where it is likely to be washed into waters of the state by runoff or precipitation or by any flowing waters." The term "waters of the state" is broadly defined to include "public ditches, tax ditches, and public drainage systems within the state."

Finally, "a state agency may not undertake any land clearing, soil improvement, or construction activity involving soil movement unless the agency has submitted and obtained approval of a storm water management plan from the Department of Natural Resources and Environmental Control. Since curators are working as agents of the state, the enforcement people in the Department will apply this part of the law to curators.

To avoid possible penalties, anytime you contemplate work that would fall under the purview of this law, contact your park Superintendent or Administrator and discuss it with him/her so he/she is aware of your plans.

Since your park Superintendent/Administrator will know what procedures are applicable in your county, follow their advice.