

fig. 9

Letter from Henri Ehram to Gene Davis, June 29, 1965. Henri Gallery Records, Archives of American Art, Smithsonian Institution.

first attempt to create the paintings, using local art students, so poor that he refused to put his name to them.⁴⁰ McGowin ultimately enlisted Michael Clark (now known as Clark V. Fox), a recent graduate of the Corcoran School of Art and a skilled artist, to paint the fifty copies.⁴¹

The process of mass-reproducing *Popsicle* highlighted a hierarchy of labor in *Giveaway*, by which the physical production of the work was subordinate to its conception. Working on five canvases at a time, twelve to sixteen hours a day for nine days, and paid less than a skilled worker's hourly wages plus meals, Clark painted all fifty works.⁴² Extant canvases bear the silkscreened names of the three event organizers followed by Clark's original signature, with some—but not all—of the works also signed by Clark's assistants (fig. 10).⁴³ In effect diminishing the painter and fabricators' skill and artistic contributions, Douglas Davis declared "although his work is original and profound, in some ways Gene Davis is an easy copy."⁴⁴

Like Sturtevant's repetitions, the copies of *Popsicle* were not exact.⁴⁵ Mixing pigments to produce the exact hues of the original painting was challenging, given the brevity of Davis's instructions.⁴⁶ Moreover, at least one critic noted stylistic differences between Davis's and Clark's stripes; the older artist had been interested in how overlapping colors could produce faint effects of subtle vibration, but Clark did not have the luxury of letting one stripe dry before painting the next.⁴⁷ Subtle aesthetic differences between the original and its reproductions produced fresh skepticism about a model of creative practice unable to see beyond the dichotomy of author and nonauthor.



fig. 10
Gene Davis inspecting
Giveaway paintings
while Ed McGowin
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1969. Photographer
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Popsicle thus pushed the limits of a model of authorship that art historian Miwon Kwon has described as based on the maker's "authority to authorize in the capacity of director or supervisor of (re)production."⁴⁸ By this logic, Douglas Davis could declare a work to be his even if he did not directly participate in its manufacture. A photograph published in the *Baltimore Sun* just before *Giveaway* took place, however, suggests that Gene Davis was less convinced (fig. 11). In the foreground, one of the Corcoran art students involved in the production of the paintings, dressed in work clothes, dips a brush into a can of paint. Behind her stand McGowin and Gene Davis, the latter dressed in a buttoned sports jacket, crisply pressed shirt, and dress pants. The brush in the artist's right hand is purely for show, a reassuring sign that the work is still *his*.⁴⁹ But for whom was this gesture intended? Readers of the *Sun*, who would have included those invited to the event? A professional journalist and editor from 1939 until 1968, Gene Davis would have been well aware of the impact that news reports had on audience perceptions.⁵⁰ If he wanted to reassure the *Giveaway* public that he was *Popsicle*'s creator, press photography was a prime opportunity to do so. Or was the reassurance meant for Davis personally? Was the artist nervous that the *Popsicle* copies would be seen as Clark's work rather than his own? In the late 1960s Clark had attracted serious attention from the DC art world. Washington Color School artist Tom Downing allegedly declared, "When they see these [Clark's] paintings, they won't be thinking about Gene Davis anymore."⁵¹

While pop art inflected Davis's choice of titles and colors for his paintings, as well as the copying of *Popsicle* for *Giveaway*, the motivations of the Washington Color School diverged significantly from Andy Warhol's storied 1963 remarks that "everybody should be a machine" and that someone else should be able "to do all my paintings for me."⁵² A better point of reference is art critic Rosalind Krauss's 1971 explanation for why so many artists worked in series. Citing Noland's

Free Art and a Planned *Giveaway*

Joan Kee

PRINTED ON A HEAVY CARD STOCK ordinarily reserved for wedding announcements, the invitation cordially summons the recipient to a black-tie affair in the grand ballroom of the Mayflower Hotel in Washington, DC. “Fifty free paintings” by the prominent Washington Color School artist Gene Davis, the invite promises, will be distributed at the May 22, 1969, gathering. Known today as *Giveaway*, this unconventional event was conceived by Corcoran School of Art professor and sculptor Ed McGowin and organized in collaboration with Gene Davis and the critic Douglas Davis (figs. 1, 2).¹

Giveaway belongs to a strain of postwar American art that deliberately challenged dominant economic forces. From Robert Morris voiding the “esthetic quality and content” of a work in order to punish its miscreant buyer, to Bruce Conner authorizing viewers “to alter any collage or assemblage . . . displayed for public consumption,” this history was shaped by refusals of capitalist market imperatives like sole authorship, originality, and ownership.² Organized to announce the end of the Washington Color School at the height of its critical and commercial success, *Giveaway* insinuated that market assimilation amounted to the death of art. Yet far from an occasion for mourning, the event generated a productive kind of doubt about art’s exchange value. In contrast to the emphasis on the single, unique author that helped secure the worth of paintings by artists like Morris Louis and Kenneth Noland, *Giveaway* reconfigured Gene Davis’s work as a group effort shaped by participants with often discrepant conceptions of value.





Associated with color field painting, the Washington Color School came to national prominence in the mid-1960s. Representative artists in this group, including Davis, Louis, Noland, and others, applied vibrant pigments directly onto unprimed canvases, often creating repetitive forms such as stripes, concentric circles, or stacked chevrons.³ Art historian, critic, and curator Gerald Nordland organized the school's debut, a traveling exhibition featuring the work of Davis, Louis, Noland, Thomas Downing, Howard Mehring, and Paul Reed staged at the Washington Gallery of Modern Art in June 1965.⁴ Despite its name, the Washington Color School was less a close-knit artistic community or distinctive movement than it was a symptom of the institutionalization of specific aesthetic values. Noland described the fundamental aim of his art as "get[ting] that color down on the thinnest conceivable surface, a surface sliced into the air as if by a razor. It's all color and surface, that's all."⁵ Color field painting represented the apotheosis of New York critic Clement Greenberg's influence in the nation's capital (*fig. 3*). In a 1982 oral history interview conducted for the Archives of American Art, Jacob Kainen, a pioneering DC abstractionist who introduced Noland to Louis and instructed Gene Davis, recounted instances of painters changing their work in response to Greenberg's appraisal. Davis modified his color palette based on

fig. 1 (previous)

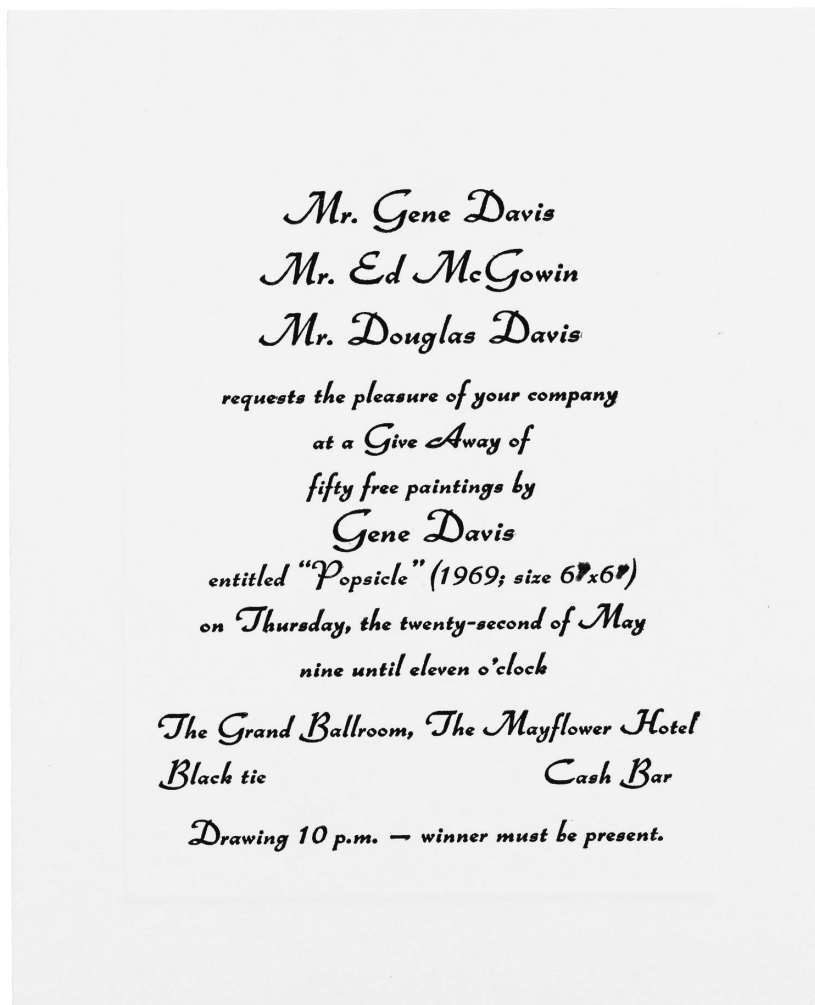
Ed McGowin, Gene Davis, and Douglas Davis at Giveaway, Mayflower Hotel, Washington, DC, 1969. Photograph by M. Susan Miller. Gene Davis Papers, Archives of American Art, Smithsonian Institution.

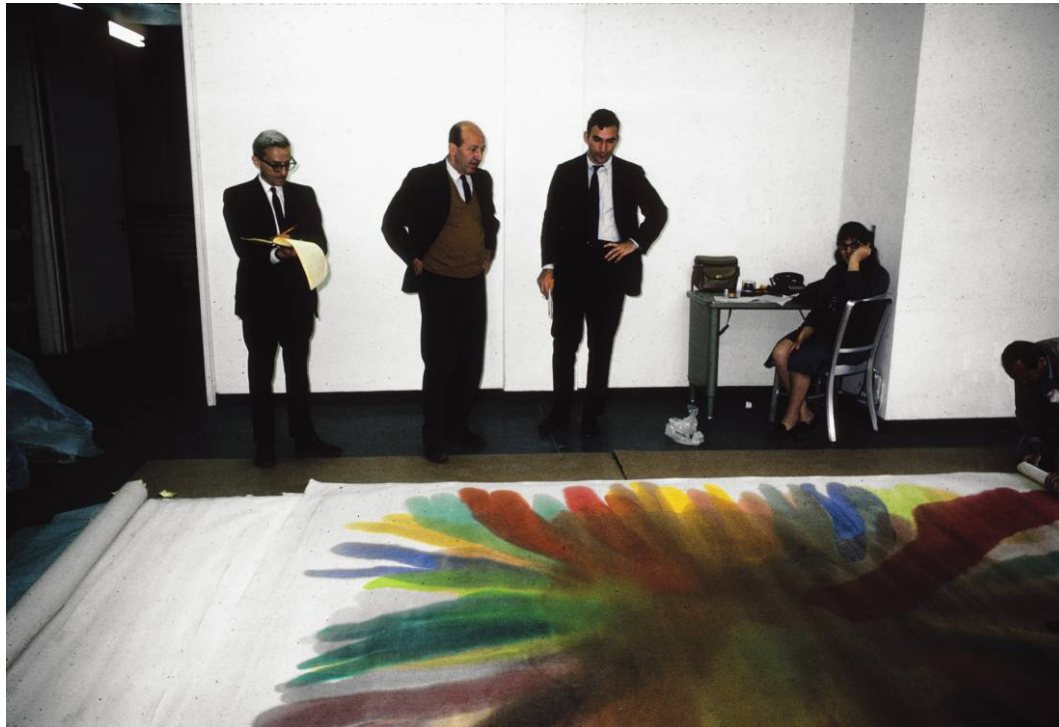
fig. 2

Invitation to Giveaway, 1969. Gene Davis Papers, Archives of American Art, Smithsonian Institution.

fig. 3 (opposite)

Clement Greenberg, Michael Fried, and two unidentified people viewing an unrolled Morris Louis canvas at Santini Brothers warehouse, New York, 1966. Photographer unknown. Morris Louis and Morris Louis Estate Papers, Archives of American Art, Smithsonian Institution.





feedback from the eminent formalist critic, according to Kainen, and Mehring followed Greenberg's advice regarding style and technique "rather slavishly."⁶

Greenberg's authority indirectly contributed to the fracturing of the DC art world. A *Family Tree of Modern Art in Washington*, created by Noland's first wife, Cornelia, illustrates that the Washington Color School was but one of many lines of avant-garde artistic inquiry in DC in the 1950s and 1960s, which also included groups of artists associated with the Corcoran Gallery of Art, the Smithsonian's National Collection of Fine Arts (now Smithsonian American Art Museum), and American University, among other local institutions (fig. 4). Gene Davis recalls that the "AU [American University] School" of mostly gestural abstract painting (represented by the lowest left-hand branch in Cornelia Noland's tree) was marginalized because its artists did not have a significant presence in New York.⁷ Rifts within the Washington Color School were also apparent; Downing alleged that Nordland's 1965 exhibition was organized "primarily to highlight Gene Davis," and, according to the painter Sam Gilliam, many older artists in the so-called group "did not speak to each other."⁸

To a younger generation of Washington artists who came of professional age in the 1960s, which included McGowin and Douglas Davis, by the end of the decade color field painting had become too "acceptably Establishment."⁹ However, refusing such work did not mean accepting painting's demise, as it had in New York circles. Rather, it meant thinking about the art form in new arrangements and contexts; Gilliam, for example, began suspending loose canvases from ceilings and arranging them sculpturally on gallery walls and floors (fig. 5). With *Giveaway*, moreover, in arranging for the mass reproduction and free circulation of an artwork originally intended to be singular, McGowin and the Davises directly challenged Greenberg's definition of what qualified as properly avant-garde.

Although *Giveaway* was a formal, black-tie gathering held at a prestigious Washington hotel known for hosting inaugural balls, the camp nature of the proceedings compromised the event's veneer of sophistication. Ten full-size copies of Gene Davis's large acrylic painting *Popsicle*, the promised boon of "patrons" who contributed funds to *Giveaway*'s realization, were displayed side-by-side on easel-like stands (fig. 6).¹⁰ Another forty unstretched copies were individually rolled and tied with lengths of bright red ribbon. A nattily attired Gene Davis ceremoniously drew names of *Giveaway* attendees from a large silver bowl, while Douglas Davis, "wearing tux trousers with a satin stripe and a shirt striped with colors of orange, cantaloupe, and lime," announced the winners and McGowin, resplendent in a bow tie, handed out

fig. 6
Scene from *Giveaway*,
Mayflower Hotel,
Washington, DC,
1969. Photograph
by M. Susan Miller.
Gene Davis Papers,
Archives of American
Art, Smithsonian
Institution.



the rolled paintings (see fig. 1). Eyewitnesses described the event as more like a circus than an elegant soiree, with artwork distributed like prizes.¹¹ The *Giveaway* organizers had transformed the singular work of art into raffled goods of mass desire.

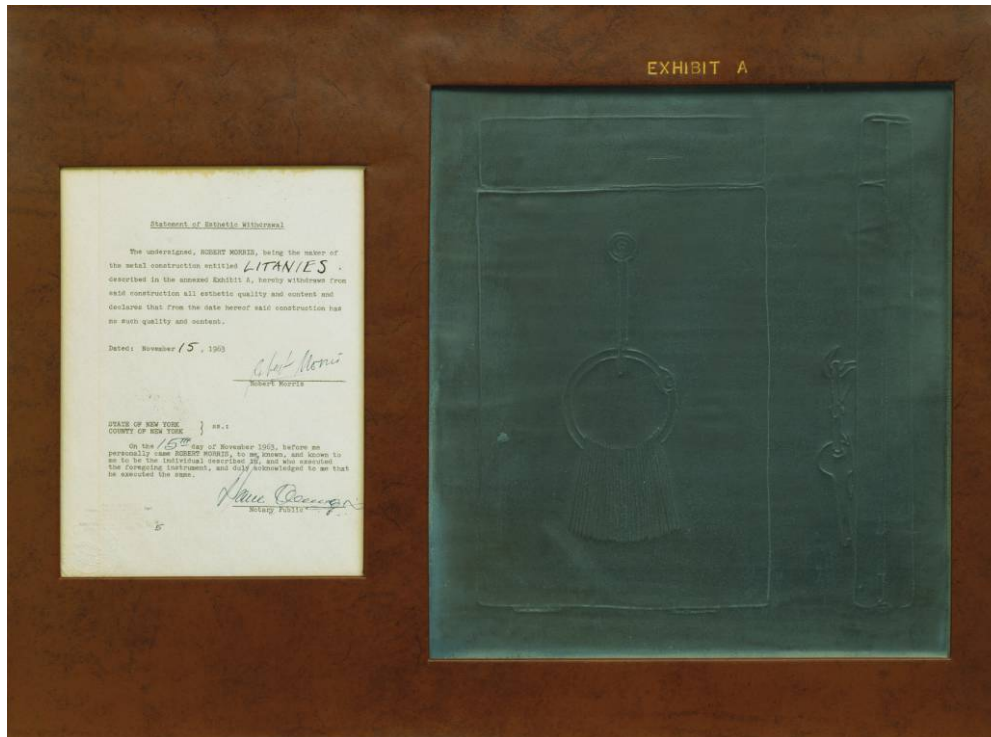
Giveaway complemented a distinctly 1960s outpouring of artistic gestures that willfully repudiated earlier avant-garde refusals, denials, and other forms of negation. As Renato Danese, former curator of twentieth-century art at the Corcoran, observed in 1971, "Like [Robert] Rauschenberg's erasure of the de Kooning drawing (1951), [*Giveaway*] paid homage to an era and simultaneously recognized its termination."¹² But, also like *Erased de Kooning Drawing*, *Giveaway* was intended to stimulate new thinking. In the spring of 1969, likely in March, McGowin had asked Gene Davis, a good friend

and arguably the best known and most successful Washington Color School artist, for a painting that he could copy and then distribute for free. After some consideration, Davis went so far as to produce a canvas especially for the occasion.¹³ This gesture suggested the artist's desire to exert greater control over the discursive positioning of his work, perhaps distancing himself from the mandates of Greenbergian formalism. At the same time, *Giveaway* offered Davis the opportunity to rescue his artistic production from the obsolescence to which some New York critics had condemned it. In 1967, Max Kozloff of the influential contemporary art journal *Artforum* had published a blistering review of Davis's work that described it as "decoration," a thinly veiled salvo against the foundation of color field painting and perhaps even the status of painting itself.¹⁴

The immediate payoff of *Giveaway* was the recuperation of some measure of cohesion for the DC art scene. As McGowin stated, it was very much an event for the "DC arts community."¹⁵ But if *Giveaway* was partly meant to rehabilitate the independence of art in Washington, it was paradoxical that McGowin and his colleagues turned so decisively to conceptualism, which had become an institution unto itself. That turn was fraught with doubt. A month before *Giveaway*, Douglas Davis cautioned Gene Davis, "We shouldn't simplify its meaning by suggesting that it only points to conceptual art." The critic complained that "some of the New York sharpies" had dismissed the event as passé because of its "conceptual, anti-painting themes," insisting that these themes were "but part of it."¹⁶ It was nevertheless impossible for *Giveaway*'s creators to resist the potential that conceptualism offered for critical reflection on artistic conventions and, by extension, broader social phenomena. *Giveaway* represented the first of many times that McGowin used his creative practice to interrogate market systems and the law. The following year he commenced a project in which he legally changed his name twelve times over the course of eighteen months, making work under each name, an act that challenged what the artist regarded as a system that suppressed individual aberration in the name of legible continuity.¹⁷ *Artforum* lauded Douglas Davis for his insistent querying of "how artists could challenge and transform the institutional infrastructure—including . . . [the] operating assumptions of institutions, from art museums to universities to publishing houses."¹⁸ For all three *Giveaway* creators, the critical value of their project was the collapse of the institutionalized distance "between original and copy, value and non-value, real and fake."¹⁹ As the men explained in a collective artist statement accompanying a letter to prospective patrons:

We celebrate the end of an important movement in art, one which started here in Washington and which served to finish painting and make possible the emergence of another generation of artists beyond painting. In a broader sense, by this act, we destroy the object and consecrate the idea. We open the way for new beginnings in art everywhere.²⁰

Despite the pompous wording of the organizers' artist statement, which seemed to parody the deadly earnestness of much conceptual art, *Giveaway* was clearly informed by the economically activist conceptual work that interrogated the commodity status of art throughout the 1960s. Perhaps the most famous example of this approach was Robert Morris's *Document* (fig. 7), a notarized statement that nullified the



artistic value of Morris's metal construction *Litanies* as a punitive measure against architect Philip Johnson, who had failed to pay the artist for the work in a timely manner. In the later 1960s, the emphasis on ideas over tangible objects continued to interest artists looking to dissociate the circulation of art from the frameworks of property ownership and classical economics. "When you think about it," explained Lawrence Weiner in a 1969 interview, "the price [of conceptual art] becomes almost unimportant because all the art's given away."²¹ The organizers of *Giveaway* made clear their intention to subvert dominant market forces, announcing, "The act of giving away 50 paintings by Gene Davis is a direct challenge to the idea of art as a 'precious, unique, irreplaceable object' which is 'owned.'"²² In a 1974 *Esquire* magazine article, Douglas Davis described contemporary America as "a civilization where money structures and defines everything," asserting that distributing artworks for free invoked "a time when it [art] was literally beyond price."²³

For both Davises, a crucial first step toward market subversion was undermining the assumption that works of art were rarefied objects. In a March 1969 letter to Douglas, Gene proposed staging a solo show in his studio of what he called "throw away" works "as part of the festivities" surrounding *Giveaway*. "There would be no paintings in the show," the artist explained, which "would mainly juxtapose things not ordinarily associated with each other . . . a square box covered with porous cheese cloth . . . open containers of highly odorous materials, such as ammonia, perfume, turpentine, sulphur, etc."²⁴ According to the *Washington Post*, Douglas Davis had first conceived of marking the "new beginning of art" in DC by "gather[ing] color paintings and destroy[ing] them." McGowin suggested giving the works away instead, a judicious choice that lessened the chances of *Giveaway* being perceived as a purely iconoclastic gesture.²⁵

fig. 7
Robert Morris, *Document*, 1963. Typed and notarized statement on paper and sheet of lead mounted in imitation leather mat, 17 7/8 x 23 3/4 in. The Museum of Modern Art, New York, Gift of Philip Johnson (516.1970). © 2018 Robert Morris/Artists Rights Society (ARS), New York. Digital image © The Museum of Modern Art/Licensed by SCALA/Art Resource, NY.

McGowin and the Davises upped the ante by staging an event in which the cost of production exceeded the financial return. They sent solicitation letters to numerous galleries and collectors, many of whom were part of the “establishment” that *Giveaway* set out to challenge, asking them to “join with [them] in a major step that will establish the maturity and independence of the Washington art community.” For a donation of \$250 or more, patrons were promised a “free painting by Gene Davis, selected by Douglas Davis and made by Ed McGowin.”²⁶ Despite such favorable conditions, getting prospective donors to support the project proved challenging and the organizers found it difficult to recoup even the cost of materials used to create the canvases.²⁷

Writing to DC gallerist (and Gene Davis’s dealer) Henri Ehrsam shortly after *Giveaway* took place, Douglas Davis observed that the “opposite of color painting” was artistic expression focused on “collaboration and participatory activity rather than art objects.” Davis touted art events like *Giveaway* as a form of expression that “direct[ed] art away from itself into the outside world,” and “formalize[d] the idea that all art is at base collaborative,” remarks that coincided with a broader refusal of sole authorship.²⁸ However, this collaboration was jeopardized almost as soon as it was realized. In a letter published in the April 1970 issue of *Art International*, Gene Davis laid claim to the stripe motif as his rather than as Washington Color School “community property,” and dismissed the paintings given away as “copies, executed by students” under his and McGowin’s direction.²⁹ A few months later, in the same magazine, Douglas Davis stated that while *Giveaway* was a “three-part collaboration,” one of its implications “stem[med] directly out of [his] own interest” in participation-based art, “which date[d] back several years.”³⁰ At least one critic would agree, describing *Giveaway* as Douglas Davis’s idea.³¹ Although *Giveaway* attempted to include multiple authors and forms of authorship, the idea of a single, master artist proved far more difficult to dismiss than any of the project collaborators had imagined.

Gene Davis’s six-by-six foot painting *Popsicle* (fig. 8) was an appropriate anchor for an event concerned with the relationship between art and commerce, both because its title referred to a mass-produced, easily consumable item, and due to how the artist regarded the work’s dimensions.³² Deeply concerned with questions of scale and its impact on painting, Davis explained in a 1975 interview that “eight feet works pretty well. But when you get down into paintings only six feet high, somehow it is no longer a world. It tends to become more of an object.”³³ The artist’s desire to distinguish paintings from objects reflected his worry that audiences perceived his work as merely so much readily producible output. A 1965 letter penned by Henri Ehrsam suggests as much: the gallerist informs Davis that she has a client for one of his paintings, explaining that any canvas would be acceptable so long as it has “narrow stripes—about 6’ or 6 ½’ high . . . nothing enormous but a good comfortable size” (fig. 9).³⁴ This emphasis on scale (to the exclusion of color palette, composition, or style) suggests that the buyer regarded Davis’s work as he or she might a floor covering purchased by the yard.

In a May 1969 *Washington Post* article about *Giveaway*, critic Paul Richard remarked, “No painter’s work could suffer less from assembly line production [than Gene Davis’s].” In preparation for the event, Davis sent the original *Popsicle*, along with a list of his desired paint colors and the number of



stripes to be painted in each shade, to McGowin, whose studio became the site of manufacture.³⁵ An important precedent for this copying project was Elaine Sturtevant's "repetitions" of well-known artworks, a long-term conceptual venture that she initiated in 1964. Former Corcoran director James Harithas, who stewarded donations from *Giveaway's* patrons, would later claim that the event was borne out of Douglas Davis's interest in Sturtevant's 1967 recreation of Claes Oldenburg's 1961 installation *The Store*, a work of art that "ma[de] visible th[e] potential for a future of iterations removed from any singular notion of original, authorship, or control."³⁶ Sturtevant emphasized the shortcomings of an approach to art narrowly focused on visual appearance.³⁷ "I wanted to make an artwork that could disappear," she later explained.³⁸ And she did so, in a manner of speaking, eradicating the means by which art became visible to legal and economic structures: namely, authorship and ownership.

Gene Davis, who was known to delegate to assistants the task of painting his trademark stripes, feigned indifference about others copying his art. "It doesn't bother me that 'almost anyone' could paint pictures like mine," he explained in a 1962 interview. "I like to feel that I have renounced skill as an end in itself . . . the concept is the thing."³⁹ Yet the process of ruling an unprimed canvas into hundreds of straight lines and then taping the areas between the lines to ensure that the stripes had straight edges could prove overwhelming. McGowin recalled that Gene Davis found the quality of the

fig. 8
Gene Davis, *Popsicle*,
1969. Acrylic on canvas,
66 ¼ x 67 ¾ in., RISD
Museum, Gift of Mr.
Arthur J. Levy, 72.173.
© 2018 Estate of Gene
Davis/Artist Rights
Society (ARS), New
York. Photo: Erik Gould,
courtesy of Museum
of Art, Rhode Island
School of Design,
Providence.

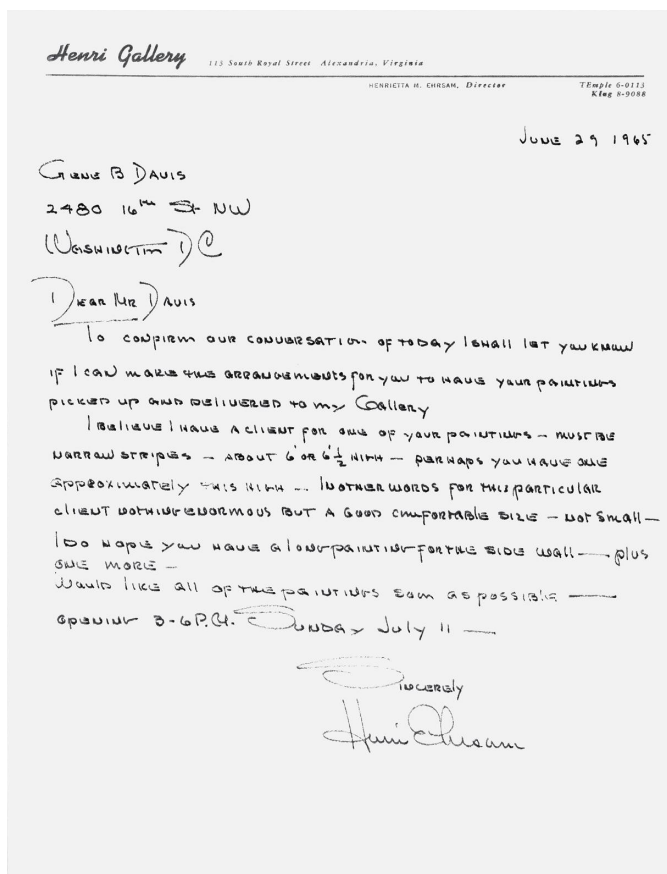


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“target” paintings, Krauss argued that serialization enabled an artist to “ground the intentionality of his meaning and of meaning itself.”⁵³ A single Noland “target,” however good a painting, lacks the social potential of a deliberate constellation of similar works. Art historian Caroline Jones has interpreted Krauss’s remarks as a pointed reflection on the relationship between art making and corporate branding. “Krauss’s discussion brings up the point that for a Noland ‘brand’ to function as such,” Jones writes, “the market must be sufficiently saturated with his targets . . . so that we ‘know how to take’ (consume) Noland.”⁵⁴

In agreeing to have *Popsicle* reproduced fifty times, Gene Davis may have been looking to expand his market footing, which was more established than that of his *Giveaway* colleagues but not completely assured. The painter received commissions and consistently sold work beginning in 1962, but he did not become a full-time artist until the late 1960s.⁵⁵ Davis incurred some financial risk in allowing his work to be reproduced at a scale that invoked the specter of mass production and by endorsing those reproductions as “his.” But offering one of his canvases as the centerpiece of *Giveaway* afforded the artist a unique opportunity to cultivate his “brand.” Letting others convert an original, singular work of art into an object of relative mass production may have in fact rekindled Davis’s proprietary instinct, further evincing just how difficult it was to decouple art from market dynamics, and specifically from the regime of property ownership.

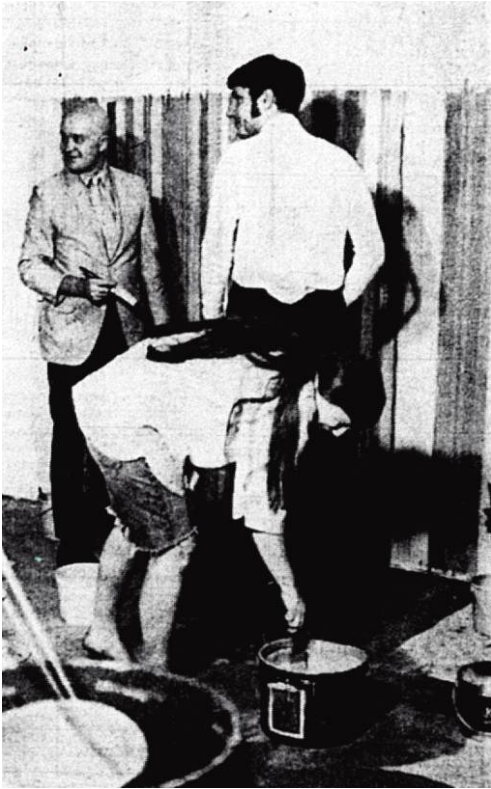


fig. 11
Gene Davis with Ed McGowin and an unidentified Corcoran School of Art student, 1969. Photographer unknown. From Barbara Gold, “Free Art is Not Just a Stripe,” *Baltimore Sun*, June 8, 1969, SD1.

The market was arguably the entity through which the Washington Color School, and all contemporary painting for that matter, made its strongest impact on the DC art community. Memories of Mehring selling out his New York exhibition at A. M. Sachs Gallery to the Museum of Modern Art and the Whitney Museum of American Art in 1966 were still fresh, while the buying and selling of color field paintings appeared to be artificially managed for the benefit of some artists at the expense of others.⁵⁶ Gilliam recalled, for example, that “Greenberg exerted [control] over certain aspects of the New York market,” initiating “games” that allowed Downing’s works to languish so that the painter would not compete with Noland for buyers.⁵⁷

How much control artists actually had over their works once they entered the world of trade was a pressing question by 1969, given sellers’ and regulators’ persistent likening of art to any other object in the commercial arena. In a 1974 *Esquire* article entitled “Toward the Billion-Dollar Painting,” Douglas Davis recalled a recent conversation with a dealer who admonished, “Don’t you understand that what supports all of this activity is *property*? Art is property.”⁵⁸ This attitude was compatible with US copyright regulations that had yet to distinguish artworks from the ordinary stream of commodities. At the time of *Giveaway*, an owner could do whatever he or she pleased with a purchased artwork; it would be another six years before an amended US Copyright Act granted artists some protection against indiscriminate destruction or reproduction of their intellectual property.⁵⁹

The law not only favored art buyers; it also deprived artists of fully benefiting from the economic value of their creative activities. Federal tax

law was a case in point. The Tax Reform Act of 1969 held that buyers could deduct the full market value of art they donated to qualifying institutions. Makers, however, could deduct only the cost of materials used in a work's production. Under these circumstances, an artist's right to set prices held critical, even political, implications. By granting McGowin permission to reproduce *Popcorn* for free, Davis reclaimed from critics and gallerists some of their authority to determine artistic and market worth.

For Douglas Davis, it was not enough to simply declare the end of Greenbergian formalism. His discussions of *Giveaway* implied a strong attachment to the aspirations of social transformation encompassed by what German literary critic Peter Bürger called the historical avant-garde.⁶⁰ Davis embraced *Giveaway* as an act of resistance against the dominant free market economy, describing art as "common, rather than individual, property."⁶¹ In 1974 (the year Bürger published his *Theory of the Avant-Garde*), in an article about the expanding contemporary art market, Davis added that the staging of *Giveaway* had been informed by his belief that "possession, obtained through money, extinguished art."⁶²

But as Bürger pointed out, the contemporary avant-garde ("neo-avant-garde," in his parlance) operated within a system where institutional critique was doomed to institutional cooptation. In spite of Douglas Davis's grandiose revolutionary aspirations, what ultimately made *Giveaway* significant was that it did not reject outright the free market, the legal system, or prevailing assumptions about the value of artworks. Rather, the organizers created a set of conditions under which these conventional attitudes could be freely explored. To paraphrase Bürger, the real task lay in revealing what the ideological assumptions of bourgeois society concealed.⁶³ "Rarely have people admitted more frankly that a work of art has also become a commercial object," wrote *Sun* critic Barbara Gold in her firsthand report on the event.⁶⁴

One of *Giveaway*'s most important contributions was framing painting within an economy whose primary currency was experience. McGowin and the Davises' documentation of *Popsicle*'s production and their elaborate preparations for the culminating event demonstrated that the market was comprised of more than merely a series of economic transactions tied to an artist's critical and popular reputation. In his wildly popular publication *Future Shock* (1970), which examined the promise and peril of "the acceleration of change in our time," journalist Alvin Toffler argued that singular experiences would come to command premiums beyond those accorded to tangible goods: "Consumers [will] begin to collect experiences as consciously and passionately as they once collected things." Toffler, whose views on the importance of experience were shaped in part by happenings and participatory art, imagined that the artist of the future would become an "experiential engineer."⁶⁵

Initially, audiences may have been attracted to *Giveaway* by the possibility of receiving something for nothing, but the real value of attending lay in watching a transaction typically conducted behind closed doors transformed into a riotous public spectacle (fig. 12). Emotions ran high at the event. Gene Davis recalled, "Very early, the chanting began, 'Give it away, give it away.' When we finally drew the names of the winners out of a large silver bowl, the yelps and screams of the victors, and the groans of the losers, were earsplitting."⁶⁶ Newspaper accounts reported a festive atmosphere, complete with a full orchestra playing swing music. Those who did not receive works allegedly "attacked" a heap of masking tape used in making the copies of *Popsicle*, pulling off chunks that they

asked Gene Davis to sign, thus “transform[ing] the little piles of waste into art.”⁶⁷ Such displaced “ownership-lust” was apparently powerful enough to convince at least one recipient to compromise his ethical standards. A “hippie painter from Washington’s Free Community” committed to relinquishing all material possessions confessed to being “co-opted” into accepting one of the free canvases.⁶⁸



Giveaway thus worked against the logic of regulatory structures whose proper function depended upon the foreclosure of uncontrolled feeling. Consider a notorious 1970 case in which the US Court of Claims ruled against art collectors Charles and Jayne Wrightsman, who sought to deduct from their taxes the cost of acquiring their artworks. The court rejected the couple’s claim because they had displayed some of these acquisitions in their home, where they could take personal pleasure from them. As attorney Harmon S. Graves remarked sarcastically in an essay concerning the tax implications of art collecting, “Once acquired, the art work (if a chair) should not be sat upon, or otherwise functionally used, nor be viewed with an expression of deep contentment.”⁶⁹ In the case of *Giveaway*, however, joy and contentment (as well as less pleasant emotional states) lubricated the workings of the art market. “Much of the ‘culture industry’ is devoted to the creation or staging of specialized psychological experiences,” Toffler observed, positing that the most valuable experiences are those that subject participants to real risks and rewards.⁷⁰

In the case of *Giveaway* the reward was self-evident, but only after the event did the risks become apparent.

In the moment, few *Giveaway* participants seemed to recognize the irony of giving something away at a black-tie event with a cash bar, and of displaying and distributing the canvases like raffle prizes. But several participants harbored doubts about what, exactly, they had won. One collector, Douglas Davis recalled, was unsure whether the work he had received was “a replica, an original, a print, or what.”⁷¹ Davis relished such confusion; he had, after all, wished to “cast doubt upon the accepted standards of value in art by making our fifty original ‘copies’ immaculately beautiful.”⁷² Yet the critic was astonished by his own success, marveling, “Some of those ‘copies’ are being priced and traded at \$3,000. Unbelievable.”⁷³ Even before the event took place, some would-be patrons were openly skeptical of *Giveaway*’s premise. Barklie Henry, a trustee of the Whitney Museum, likened it to an “old fashioned marriage” where “virgins [were] married off,” albeit virgins with “50 offspring, all offered up for adoption.”⁷⁴ Henry’s comment suggested that he found the notion of giving paintings away and thus undermining the value of an “original” to be improper, antimodern, even ethically suspect. The idea of property exceeded its legal definition; it was a deeply ingrained social custom sustained through the observance of certain protocols.

fig. 12
Scene from *Giveaway*,
Mayflower Hotel,
Washington, DC, May
22, 1969. Photograph
by M. Susan Miller.
Gene Davis Papers,
Archives of American
Art, Smithsonian
Institution.

Not knowing what each *Popsicle* was (i.e., an original or a copy) meant not knowing its *value*, a term that in the late 1960s and early 1970s underwent considerable revision through court actions and legislation. A few months after *Giveaway*, the Internal Revenue Service (IRS) challenged the estimated market value assigned to the works of sculptor David Smith by the executors of his estate (Clement Greenberg, artist Robert Motherwell, and attorney Ira Lowe, who had represented McGowin during his name changes).⁷⁵ These men based their own estimate on the price each work would likely fetch if sold individually. They took into account factors like the number of Smith works available, the artist's reputation, and the likelihood of his prices rising. The IRS countered with other factors, including the difficulty of selling large, nonrepresentational sculptures and what might happen if the works were sold in bulk.

The fact that Gene Davis had signed each work was enough to meet some owners' desires for originality. Eugene Myers, dean of the Corcoran School of Art, reportedly advised one recipient, "Congratulations, you've just won \$3,000," suggesting that the canvas could be sold immediately, as if it were the only *Popsicle* in existence.⁷⁶ Yet for other collectors, who saw the paintings as "ersatz" or "faux" Davises, the value of the copies rested in their role in a particularly memorable cultural event rather than their market price.⁷⁷ The ambiguity of assigning value became even more pronounced when collectors tried to give their *Popsicle* works to museums and other nonprofit institutions.⁷⁸ The higher market value of a "genuine" Gene Davis, when donated to a qualifying institution, results in a larger tax deduction than does an ersatz or even an authorized copy.⁷⁹ At least one seller has made a point of calling the *Giveaway* works *After Popsicle*, distinguishing between the supposed original referent and the replicas.⁸⁰

Popsicle continues to be bought and sold as a conventional painting, despite the best efforts of *Giveaway*'s organizers. The event itself was never institutionalized in the manner of some of its contemporaries, despite the canonization of performance and participatory art. It is instead remembered primarily as an anomalous occasion, a framing that compromises its claims to the status of artwork. Yet *Giveaway*'s conspicuously marginal position is in fact a testament to its success as a genuine intervention, one tied to Douglas Davis's utopian aspirations for an avant-garde art that could affect everyday thinking. Davis may have put matters best when he pleaded with the editor of *Art International* to describe *Giveaway* as a "phenomenon" rather than a "polemic" against color field painting.⁸¹ Although not as radical or lasting as he had initially hoped, the work nevertheless made legible the overlaps between contiguous systems of order—that is, between the imperatives underwriting market transactions, the assumptions of the legal system regarding art, and histories of modernism complicated by different ideas of progress and progressive thinking. Above all, *Giveaway* made an argument for how art as an experience can unsettle the systems of value and distribution to which it is otherwise subject.

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Notes

Grateful appreciation is due to the interviewees and those involved in the scholarly workshop "Visible Hands: Markets and the Making of American Art," held at the Tate Modern in 2016.

1 The work was conceived without a title; the invitation calls it "Give Away." Critic LeGrace Benson was among the first to refer to the event as *Giveaway* (she called it the "Great Giveaway"). See "The Washington Scene," *Art International* 13, no. 10 (December 1969): 36.

2 See the Museum of Modern Art's online catalogue record for Morris's *Document*, <https://www.moma.org/collection/works/79897>; and Anastasia Aukeman, *Welcome to Painterland: Bruce Conner and the Rat Bastard Protective Association* (Oakland: University of California Press, 2016), 190.

3 Gene Davis claimed that the Washington Color School influenced Frank Stella and other abstract painters of the period. Oral history interview with Davis conducted by Estill Curtis Pennington, April 23, 1981, Archives of American Art, Smithsonian Institution, <http://www.aaa.si.edu/collections/interviews/oral-history-interview-gene-davis-12129> (hereafter Gene Davis interview).

4 Gene Baro, "What Makes an Artist a Washington Artist?," *Washington Post*, April 21, 1974, E1.

5 Noland quoted in Diane Waldman, "Kenneth Noland," in *Kenneth Noland: A Retrospective* (New York: Guggenheim Museum, 1977), 33.

6 Oral history interview with Jacob Kainen conducted by Avis Berman, August 10–September 22, 1982, Archives of American Art, Smithsonian Institution, accessed July 11, 2016, <http://www.aaa.si.edu/collections/interviews/oral-history-interview-jacob-kainen-12620>. See also Clement Greenberg to Gene Davis, September 17, 1964, Gene Davis Papers, Archives of American Art,

Smithsonian Institution (hereafter Gene Davis Papers).

7 Gene Davis interview.

8 Oral history interview with Sam Gilliam conducted by Ben Forgey, November 4–11, 1989, Archives of American Art, Smithsonian Institution, <http://www.aaa.si.edu/collections/interviews/oral-history-interview-sam-gilliam-11472>.

9 Paul Richard, "'Absolutely Free': \$3000 Canvases," *Washington Post*, May 14, 1969, F1.

10 McGowin, Gene Davis, and Douglas Davis to Nicholas Satterlee, n.d., Gene Davis Papers.

11 See Barbara Gold, "Free Art Is Not Just a Stripe," *Baltimore Sun*, June 8, 1969, SD1; Davis, "Gene Davis Given Away: The Necessity of Invention," in *Gene Davis: A Memorial Exhibition* (Washington, DC: National Museum of American Art, 1987), 35; and Paul Richard, "A Giveaway in the Name of Art," *Washington Post*, May 23, 1969, B1.

12 Danese, "Introduction," in *Washington Art* (Potsdam, NY: Art Gallery, State University College, 1971), n.p.

13 McGowin does not recall the exact date he first approached Gene Davis, but states it was likely in March 1969 given the complicated logistics involved in staging *Giveaway*. McGowin, email message to the author, July 20, 2017.

14 Kozloff, "Gene Davis's New Paintings," *Artforum* 5, no. 8 (April 1967): 54. On the position and influence of *Artforum* in late 1960s New York, see Gwen Allen, *Artists' Magazines: An Alternative Space for Art* (Cambridge, MA: MIT Press, 2011), 20–21.

15 Ed McGowin, interview with author, February 16, 2016 (hereafter McGowin interview).

16 Douglas Davis to Gene Davis, April 5, 1969, Henri Gallery Records, Archives of American Art, Smithsonian Institution (hereafter Henri Gallery Records).

17 Ed McGowin, *Name Change: One Artist, Twelve Personas, Thirty-Five Years* (Mobile, AL: Mobile Museum of Art, 2006).

18 David A. Ross, "Douglas Davis (1933–2014)," *Artforum.com*, June 20, 2014, <http://artforum.com/passages/id=47198>.

19 Douglas Davis, "Washington Letter," *Arts* 44, no. 3 (December 1969/January 1970): 54.

20 [McGowin, Gene Davis, and Douglas Davis], untitled statement, n.d., Gene Davis Papers.

21 Weiner quoted in *Recording Conceptual Art: Early Interviews with Barry, Huebler, Kaltenbach, LeWitt, Morris, Oppenheim, Siegel, Smithson, and Weiner* (Berkeley: University of California Press, 2001), 104.

22 Gold, "Free Art is Not Just a Stripe," SD1.

23 Douglas Davis, "Toward the Billion-Dollar Painting," *Esquire*, November 1974, 127–28.

24 Gene Davis to Douglas Davis, March 30, 1969, Gene Davis Papers.

25 Richard, "'Absolutely Free,'" F1. McGowin recalls that Davis had actually wanted to burn the canvases. McGowin interview.

26 McGowin, Gene Davis, and Douglas Davis to Nicholas Satterlee, n.d., Gene Davis Papers.

27 McGowin interview.

28 Douglas Davis to "Ladies" [Henrietta Ehram], ca. 1970, Henri Gallery Records.

29 Gene Davis, "Letters," *Art International* 14, no. 4 (April 1970): 80.

30 Douglas Davis, "Letters," *Art International* 14, no. 7 (September 1970): 80.

31 James Harithas credited Douglas Davis as the author of *Giveaway*, comparing him to other conceptual artists like Joseph Beuys, Yoko Ono, and Elaine Sturtevant. Harithas, "Introduction," in *Douglas*

Davis: Events, Drawings, Objects, Videotapes (Syracuse: Everson Museum of Art, 1972), n.p. Clark Fox stated that Gene Davis felt that Douglas Davis used "his big name and appropriated his art from under his nose." See Fox, "The 'Popsicle' Giveaway," unpublished manuscript based on an interview with Ben Ruhe, 1989.

32 Gene Davis later remarked that his titles were strictly for practical identification purposes. Mary Swift, "An Interview with Gene Davis," *Washington Review*, December 1978–January 1979, 8.

33 Donald Wall, "Interview," in *Gene Davis*, ed. Wall (New York: Praeger Publishers, 1975), 58.

34 Ehram to Gene Davis, June 29, 1965, Henri Gallery Records. In this same letter, Ehram also requests "a long painting for the side wall."

35 Richard, "'Absolutely Free': \$3000 Canvases," F1. McGowin discusses the circumstances of production in "Panel Discussion: Washington Art Matters," Katzen Arts Center, American University Museum, recording released November 22, 2013, <https://itunes.apple.com/us/itunes-u/katzen-art-museum/id438296876?mt=10>.

36 Harithas, "Introduction," in *Douglas Davis: Events, Drawings, Objects, Videotapes*, n.p.; and Christopher Green, "Sturtevant: Double Trouble [exh. review]," *Brooklyn Rail*, February 5, 2015, <http://brooklynrail.org/2015/02/artseen/sturtevant-double-trouble>.

37 Sturtevant quoted in Dan Cameron, "A Conversation: A Salon History of Appropriation with Leo Castelli and Elaine Sturtevant," *Flash Art* 143 (November/December 1988): 77.

38 Sturtevant quoted in *Sturtevant: Double Trouble* (New York: Museum of Modern Art, 2014).

39 Leslie Judd Ahlander, "An Artist Speaks: Gene Davis," *Washington Post*, August 26, 1962, G7. The artist Frances Chapman, whom Davis described as a "collaborator," was charged with painting many of the artist's

- works. Davis retained control over how the colors were mixed and arranged. Peggy McGlone, "How an Assistant to Famed D.C. Artist Gene Davis Earned Her Stripes," *Washington Post*, September 12, 2016, http://wapo.st/2cAk3om?tid=ss_mail&utm_term=.909c545a5a3e.
- 40 McGowin interview.
- 41 See John Kelly, "Remembering the Gene Davis Giveaway, a Colorful High Point of DC's Art Scene," *Washington Post*, January 9, 2017. According to Clark, McGowin was involved in stretching the canvases. See Clark V. Fox [Michael Clark], "Washington Color School: The 'Give-Away' With Gene Davis," accessed September 15, 2015, <http://clarkfox.com/2015/09/15/washington-color-school-the-give-away-with-gene-davis/>.
- 42 Clark Fox, email message to the author, January 16, 2016. Corcoran students Vanessa Guerin and Karen Gulmon, as well as Larry LePore, helped with preparatory work, including stretching the canvases, drawing lines to guide where each stripe would be painted, and taping. See also "Panel Discussion: Washington Art Matters"; and Clark, "The 'Popsicle' Giveaway," 3. Guerin compares *Giveaway* to a film produced by Gene Davis and directed by Ed McGowin. She described her own role as that of an "executioner" of the idea; the work "was not mine." Guerin, telephone communication with the author, August 11, 2017.
- 43 The published record regarding the manner of signing and the number of signatures on these fifty paintings is inconsistent, but of the seven copies that I was able to locate, all included the signatures of Gene Davis, Douglas Davis, Ed McGowin, and Michael Clark, and four also included the names of Clark's assistants. On the extant works, the signatures of Clark's three assistants all seem to have been written in the same hand.
- 44 Douglas Davis, "Gene Davis Given Away," 32.
- 45 Fox, "The 'Popsicle' Giveaway."
- 46 Clark V. Fox, interview with the author, January 9, 2016 (hereafter Fox interview); and Andrew Hudson, "Washington Letter," *Art International* 19, no. 9 (November 20, 1975), 46.
- 47 Fox interview. Critic Andrew Hudson asserted that, despite colors and dimensions identical to the original, the subsequent iterations of *Popsicle* "exhibited a subtly different, softer quality of surface that made them look . . . like the work of Michael Clark." See Hudson, "Washington Letter," 46.
- 48 Kwon, *One Place after Another: Site-specific Art and Locational Identity* (Cambridge, MA: MIT Press, 2004), 42.
- 49 According to Fox, Gene Davis signed the backs of the canvases but did not work on the copies. See Fox interview. The lion's share of published photographs of Davis working in his studio show him dressed more casually, in rolled-up shirt sleeves. Vanessa Guerin recalls that Davis often wore turtlenecks and jeans while painting. Guerin, telephone communication with the author, August 11, 2017.
- 50 Benjamin Forgey, "Gene Davis, Noted Artist, Dies Here," *Washington Post*, April 7, 1985, C7.
- 51 Downing quoted in Gilliam interview.
- 52 Warhol quoted in Gene R. Swenson, "What is Pop Art? Answers from 8 Painters, Part 1," *ARTnews* 62, no. 7 (November 1963): 26.
- 53 Krauss, "Stella's New Work and the Problem of Series," *Artforum* 10, no. 4 (December 1971): 40–44.
- 54 Jones, *Machine in the Studio: Constructing the Postwar American Artist* (Chicago: University of Chicago Press, 1996), 161.
- 55 Roger Catlin, "The Painter Who Earned His Stripes," *Smithsonian Magazine*, December 13, 2016, <http://www.smithsonianmag.com/smithsonian-institution/painter-who-earned-his-stripes-180961348/>.
- 56 Bob Arnebeck, "The Art Game in Washington," *Washington Post Magazine*, September 17, 1978, 10.
- 57 Gilliam interview. Quoting unnamed acquaintances of Mehring, Bob Arnebeck stated that "Clem didn't push him." See Arnebeck, "The Art Game in Washington," 14.
- 58 Davis, "Toward the Billion-Dollar Painting," 202.
- 59 For a concise summary of key differences between the Copyright Act of 1976 and previous federal copyright law, see Robert A. Gorman, "An Overview of the Copyright Act of 1976," *University of Pennsylvania Law Review* 126, no. 856 (1978): 856–84.
- 60 Bürger, *Theory of the Avant-Garde*, trans. Michael Shaw (1974; Minneapolis: University of Minnesota Press, 1984), 50.
- 61 Draft of Douglas Davis's statement for *Giveaway*, April 22, 1969, Gene Davis Papers.
- 62 Davis, "Toward the Billion-Dollar Painting," 202.
- 63 Bürger, *Theory of the Avant-Garde*, 14.
- 64 Gold, "Free Art Is Not Just a Stripe."
- 65 Toffler, *Future Shock* (New York: Random House, 1970), 3, 200, 203.
- 66 Davis, "Gene Davis Given Away: The Necessity of Invention," 33.
- 67 Gold, "Free Art Is Not Just a Stripe."
- 68 Gold, "Free Art Is Not Just a Stripe." Fox states that some of the tape used in making the paintings was rolled into a freestanding sculpture later shown in a museum. Fox, interview with the author, January 9, 2016.
- 69 Graves, "The Art Collector and the Tax Collector," *Art Journal* 32, no. 4 (Summer 1973): 427. For the decision, see *Wrightsmann v. United States*, 428 F.2d 1316 (US Ct. Claims, 1970).
- 70 Toffler, *Future Shock*, 203.
- 71 Douglas Davis quoted in "The Critic Douglas Davis," *Art-Rite* 7 (Autumn 1974): 9.
- 72 Douglas Davis, "Art as Act," *Art in America* 58, no. 2 (March–April 1970): 31.
- 73 Douglas Davis to Barbara Rose, December 15, 1969, Gene Davis Papers.
- 74 Henry to McGowin, Douglas Davis, and Gene Davis, n.d., Gene Davis Papers.
- 75 Estate of David Smith v. Commissioner of Internal Revenue, 57 T.C. 650 (1972).
- 76 Myers quoted in Richard, "A Giveaway in the Name of Art," B1.
- 77 Sandy and Jim Fitzpatrick, telephone communication with the author, July 11, 2017. The Fitzpatricks were friends with the Washington Color School painter Paul Reed and attended *Giveaway*, where they received the last *Popsicle*.
- 78 By 1972, "the valuation question," as artist and lawyer Lee Evan Caplin called it, arose most frequently in connection with donations of artworks or when they were part of an inheritance. See Caplin, "Art, Taxes, and the Law," *Art Journal* 32, no. 1 (Fall 1972): 12.
- 79 Authenticity is a significant factor in determining the fair market value of a work donated to qualifying nonprofit institutions for tax deduction purposes. In *US Tax Court*, doubts concerning authenticity reduce the value of an artwork, and consequently, the amount a collector may deduct from his or her taxes. Ronald D. Spencer, "Trouble Valuing Donated Art for Tax Purposes," *Spencer's Art Law Journal* 1, no. 3 (Winter 2010), <http://www.artnet.com/magazine/news/spencer/spencers-art-law-journal-2-16-11.asp>.
- 80 The Georgetown Frame Shoppe in Washington, DC, has offered a *Giveaway Popsicle* under the title *After Popsicle*. See Artprice sales record, <https://www.artprice.com/marketplace/1395966/gene-davis/painting/after-popsicle>. Baltimore dealer Steven Scott refers to the work as an "editioned painting" by Gene Davis. Steven Scott, email message to the author, July 11, 2017.
- 81 Douglas Davis to James Fitzsimmons, June 4, 1970, Gene Davis Papers.