

# The Art Newspaper

October 2007 issue

## Judge to review Barnes planned relocation

*Museum Friends and politicians fight move*

by Jason Edward Kaufman, U.S. correspondent, The Art Newspaper

NEW YORK. The trustees of the Barnes Foundation have been ordered by a US judge to respond to a petition filed in August by the Friends of the Barnes Foundation the organization seeking to stop the foundation's move from suburban Merion to a more profitable site in central Philadelphia.

Stanley Ott, the judge at Montgomery County Orphan's Court who in 2004 ruled to allow the Barnes to break its founding charter and move from Merion ordered the trustees to respond by 4 October to the petition. It asks the court to reverse its decision, remove the current board, place the Barnes into receivership under supervision of the court, and consider new opportunities to shore up the foundation's finances.

The news follows the Barnes' trustees announcement that they have selected architects Tod Williams and Billie Tsien to design the proposed new museum. The Philadelphia mayor, John Street, has meanwhile signed an order to relocate a juvenile detention center from the city-centre site, clearing the way for the Barnes to build.

But Mark Schwartz, the attorney for the Friends, accuses the Barnes trustees of neglecting their duty to consider all reasonable alternatives to breaking the founding charter and moving the collection. He accuses the board of deliberately draining nearly \$6 m of the foundation's \$10m endowment through frivolous lawsuits against the town of Merion (which has changed its regulations to allow the Barnes to double its visitors), thereby rendering the foundation bankrupt and inducing the court to allow the move six miles away near the Philadelphia Art Museum.

Mr. Schwartz also alleges a conspiracy involving the Barnes trustees and sponsors of the move including the Pew Charitable Trusts, Lenfest Foundation, Comcast, and the governor and attorney general of the State of Pennsylvania, as well as the trustees of Lincoln University to whom Barnes left control of the foundation.

The Montgomery county Commissioners, who are also campaigning to keep the Barnes in Merion, filed a separate petition last month seeking to reopen the case. They base their petition on changes in the economic situation of the Barnes, including their offer to purchase the Barnes land for \$50m and lease it back to the museum.

Both parties question the legality of a proposed \$107m from the state of Pennsylvania to assist the Barnes's move - \$25m of which has so far been drawn by the organization. Judge Ott was not informed of the 2002 state funding plan when he ruled in 2004 that relocation was necessary for the Barnes to survive. Judge Ott has ordered the Barnes trustees to respond to the Commissioners' petition on 19 October.

The Barnes's attorney, Ralph Wellington of Schnader Harrison Segal & Lewis, says he will file motions to dismiss both the Friends' and Commissioners' cases. The primary focus of the motions will be "whether the Friends and the Commissioners have any right to reopen the proceeding at this late date," he says.

Many of the Friends's charges of conspiracy and fraud are "completely made up", he adds, saying that the petition mischaracterizes the proposed \$107m grant. Montgomery County Commissioner Tom Ellis counter: "They have \$25m of it already and all they need is the governor's signature for the rest. And the mayor signing the order to move the juvenile detention center shows where his allegiances are," he adds. J.E.K.