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Commissioners plan suit to keep Barnes in Merion

by Jeff Shields

With the move of the Barnes Foundation stalled by political gridlock in Philadelphia, officials in Montgomery County yesterday said they would sue to keep the famed art collection at its Merion home.

County commissioners unanimously voted to hire lawyer Mark Schwartz to ask a county Orphans Court judge to reconsider his 2004 decision allowing the museum to leave its specially tailored home on Latches Lane for a yet-to-be-built museum on the Benjamin Franklin Parkway.

City Council is expected next week to approve a 99-year lease for the Barnes on the site now occupied by the city's Youth Study Center, a juvenile housing facility. But city leaders have been unable to agree on a new site for the center, and no solution appears imminent. If the center doesn't vacate the site by May 2008, the Barnes Foundation can break the lease.

"I think that gives us more time," Thomas Ellis, the commissioners chairman, said yesterday. "We don't believe that Philadelphia is committed to moving the facility there, and we're committed to keeping it here."

Schwartz said he would file a petition in the next few weeks asking Judge Stanley Ott to review his decision authorizing the Barnes' relocation against the directives of its deceased founder, Albert C. Barnes. The appeal will be based on "new information" showing that politicians, private interests and the Barnes' board of directors worked together to undermine Barnes' wishes as outlined in the trust he left behind, Schwartz said.

Since January, Schwartz has been working for Friends of the Barnes Foundation, the chief group fighting the transfer of the collection. He was the only lawyer to answer the county's March request for proposals for representation.

Barnes attorney Ralph Wellington said the foundation considers the case settled.

"From our perspective, the judge, and all the way up through the Supreme Court, has fully evaluated this issue," Wellington said. "We're moving forward."