

Philly suburbs in last-ditch effort to keep Barnes art

by Michael Rubinkam

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PHILADELPHIA - The Barnes Foundation, whose suburban gallery holds a world-class trove of Cezannes, Picassos, Renoirs and van Goghs, has long claimed poverty as justification for breaking the will of its late founder and moving the art collection to downtown Philadelphia.

But a growing number of critics say the planned move has little to do with shoring up the foundation's shaky finances, and everything to do with the city's desire to claim the multibillion-dollar collection of French masterpieces and thousands of other paintings and objects for itself.

Nearly five years after they first proposed a downtown Philadelphia location, Barnes officials last week rejected a \$50 million offer to keep the gallery in Lower Merion Township, saying it came far too late to be taken seriously. Montgomery County officials, who made the offer, say they will take the Barnes to court in a last-ditch effort to prevent the move.

The Barnes rejection "shows that they're hellbent on moving and they are much more interested in ingratiating themselves with the power players and the arbiters of culture in Philadelphia than in following the dictates of the trust," said Mark D. Schwartz, a lawyer for the Montgomery County commissioners.

The Barnes won court permission in 2004 to deviate from the trust of its late founder, Dr. Albert Barnes, who had instructed that his paintings were to "remain in exactly the places they are" after his death. Barnes died in a 1951 car crash.

Barnes, a scientist who made a fortune in pharmaceuticals, established the foundation in 1922 to teach populist methods of appreciating and evaluating art. His collection has been housed in the 23-room gallery in Lower Merion since 1925. The works are displayed close together and grouped in eclectic ways to encourage a fresh viewing, as Barnes had wanted.

The foundation, arguing to break the will, said that moving to a spot near the Philadelphia Museum of Art was the only way to stay afloat.

Since getting the go-ahead, the Barnes has raised \$150 million, including a \$25 million grant from the state of Pennsylvania and millions more from three charitable foundations, to build a new home on the Benjamin Franklin Parkway and establish an operating endowment.

The foundation recently named six architects as finalists in the competition to design the gallery, but actual construction is still a ways off because the city has yet to relocate a juvenile jail that currently occupies the site.

In its offer, Montgomery County proposed to buy the Barnes' land and buildings for \$50 million and lease them back to the foundation. The money would be raised through the sale of bonds, with no taxpayer involvement, and proceeds from the sale would be used to start an operating endowment to put the Barnes on sound financial footing.

Bernard Watson, president of the Barnes' board, sent back a terse reply in which he called the decision to move irreversible. He said that the foundation had already considered all reasonable proposals, and made "binding commitments to carry out the move."

Watson declined an interview request, as did Derek Gillman, the Barnes' executive director.

Schwartz said the commissioners will seek to persuade Montgomery County Orphans' Court Judge Stanley Ott, who has jurisdiction over Dr. Barnes' trust, to reconsider his decision to allow the foundation to move.

That will be no easy task, said Bruce Mann, an expert in trust law at Harvard University. The commissioners don't have standing to sue, and too much time has elapsed, he said.

"There's no part of the judicial system that permits do-overs years after an issue has been adjudicated just because someone steps up and says, 'Hey, I have an idea,'" said Mann, who has followed the Barnes case. "The fact the county is weighing in so long after the fact is just bizarre."

Separately, U.S. Rep. Jim Gerlach, R-Pa., said Monday he has asked the Interior Department whether it is possible to designate the Barnes Foundation's Lower Merion campus a national historical landmark, even without the consent of the board. Such a designation would block the foundation from moving, he said.

Nancy Herman, a member of Friends of the Barnes Foundation, a group seeking to block the move, said there's still time for the Barnes to reconsider.

"They like to say it's a done deal, but it really isn't a done deal," Herman said. "If they have the money to stay, there is no reason for them not to."