

# **FRIENDS of the BARNES FOUNDATION**

P. O. Box 35 Merion Station, PA 19066 [www.barnesfriends.org](http://www.barnesfriends.org)

**FOR IMMEDIATE RELEASE**

March 23, 2007

Contact: Nancy Herman at 610-667-0281 or to [barnesfriends@comcast.net](mailto:barnesfriends@comcast.net)

## **PA Attorney General's Office Refuses to Release Documents to Friends of the Barnes Foundation**

MERION, March 23, 2007) In an exchange that echoes recent struggles by the press to obtain secret records of the Pennsylvania Higher Education Assistance Agency (PHEAA), the Office of Pennsylvania Attorney General Tom Corbett has denied a Right to Know Request from Friends of the Barnes Foundation. The citizens' organization is dedicated to preservation of the Barnes Foundation in Merion. In a recent letter, the group requested correspondence between the current and former Attorney General's Office and the Boards of Trustees of the Barnes Foundation and Lincoln University. The Lincoln University Board had a stewardship role for the Barnes Foundation since Barnes' death until it was conflicted in its fiduciary role to be exercised on behalf of the Barnes by the promise of more in the way of state funds.

The Friends of the Barnes Foundation request for information was denied by Sheri L. Phillips, Director of Management Services under an exception to the Right to Know Law.

The request for information followed repeated dismissals of Friends of the Barnes Foundation by the Attorney General and his deputies. In October of 2006, the group met with deputies of Attorney General Corbett to present a detailed memorandum of changed circumstances of the Barnes Foundation with a request that the Office of the Attorney General revisit the matter. Those "changed circumstances" include the fact that a \$100 million state appropriation for construction of a building to

house the Barnes art collection in Philadelphia was passed more than two years prior to the court ruling permitting the move. The Office of the Attorney General replied more than three months' later, with a curt dismissal of the request.

The organization's new request for documents is to further their research in the public interest about the role of the Attorney General's Office as *parens patriae* in the Barnes 2004 Montgomery County Orphan's Court case. That case resulted in a ruling in Montgomery County Orphan's Court that permits – but does not mandate –the Barnes Board of Trustees to move the art collection from the galleries designed for them n to the city of Philadelphia. Friends of the Barnes Foundation is seeking facts about the participation of the Attorney General in the decision to grant more State funds to Lincoln University in return for its abdicating its fiduciary responsibilities on behalf of the Barnes. They also seek facts concerning the Office of the Attorney General, the government agency responsible for the well-being of charitable organizations in Pennsylvania, abdicating its own fiduciary role with respect to the Barnes, as noted by Judge Ott during the proceedings. “The Attorney General's Office merely sat as second chair to counsel for The Foundation, cheering on its witnesses. . .[This] course of action . . . prevented the court from seeing a balanced, objective presentation of the situation, and constituted an abdication of that office's responsibility. Indeed it was left to the court to raise questions relating to the finances of the proposed move and the plan's financial viability.”

The text of the correspondence follows:

FRIENDS of the BARNES FOUNDATION  
P. O. Box 35 Merion Station, PA 19066 [www.barnesfriends.org](http://www.barnesfriends.org)

February 15, 2007

Ms. Alexis L. Barbieri, Esquire  
Executive Deputy Attorney General  
Office of Attorney General  
Public Protection Division  
Strawberry Square  
Harrisburg, PA 17120

Re: The Attorney General's Letter of January 24, 2007

Dear Ms. Barbieri:

May this letter serve as the response by the Friends of the Barnes Foundation to your letter of January 24, 2007. While we thank you for the meeting, suffice it to say that we requested redress from your office and have been turned down. We do not feel that the views memorialized in your letter meet the fiduciary standard required of the Attorney General in this matter. Moreover, if there is any point upon which this group and Judge Ott agree, it is with respect to the abysmal performance of the Attorney General's office in the most recent Barnes proceedings. The manner in which your Office conducted itself turned what should have been an adversary proceeding into a cakewalk for the Court's acceptance of the Barnes Foundation's self-serving and unsupported presentation. It serves as a dangerous precedent for the sanctity of any charitable trust, and other non-profit entities for that matter. Your letter of January 24, 2007 memorializes the Attorney General's continued unwillingness to adhere to its obligations and will be treated by this group as such.

May this letter serve an additional purpose; that is to make a request under any and all applicable "public records" statutes to obtain any and all communications and memoranda originated from the Attorney General's office or received by it with respect to Lincoln University and the Barnes Foundation from the administration of Attorney General Fisher to the present. Kindly advise me of how quickly those documents can be assembled for our review. As time is of the essence, we request your prompt response.

Sincerely yours,  
Jay Raymond  
for Friends of the Barnes Foundation

---

March 2, 2007

Mr. Jay Raymond  
Friends of the Barnes Foundation  
Post Office Box 35  
Merion Station, Pennsylvania 19066

Re: Right to Know Request

Dear Mr. Raymond:

This letter acknowledges receipt by the Office of Attorney General (OAG) of your written request for records under the Pennsylvania Right-to-Know Law (65P.S. 66.1 et seq., as amended). Your request was received by this office on March 1, 2007. For purposes of this letter, the "identified records" are those in your letter, as modified by any subsequent communications.

We have determined that the identified records are subject to an exception to the general definition of "public record", i.e., none of the records is "an account, voucher, or contract dealing with the receipt or disbursement of funds by the agency or its acquisition, use of disposal of services or of supplies, materials, equipment or other property", nor is it "a minute, order, or other decision by the agency fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons". 65 P.S. 66.1. All decisions that were made in this case were made by the Court. Therefore, your request is denied.

RIGHT TO APPEAL

YOU HAVE THE RIGHT TO CHALLENGE THIS DENIAL OF YOUR REQUEST. IN ORDER TO DO SO, YOU MUST FILE WRITTEN "EXCEPTIONS" WITH THE DIRECTOR OF MANAGEMENT SERVICES, OFFICE OF ATTORNEY GENERAL WITHIN FIFTEEN (15) BUSINESS DAYS OF THE MAILING DATE OF THIS LETTER. YOUR WRITTEN EXCEPTION MUST STATE THE REASONS WHY YOU CLAIM THAT EACH IDENTIFIED RECORD IS A PUBLIC RECORD FOR PURPOSES OF THE RIGHT-TO-KNOW ACT, YOUR WRITTEN EXCEPTION ALSO MUST EXPLAIN WHY YOU DISAGREE WITH THE REASONS SET FORTH IN THIS LETTER FOR DENYING YOUR REQUEST. YOUR EXCEPTIONS MUST BE ADDRESSED TO THE FOLLOWING: DIRECTOR OF MANAGEMENT SERVICES, OFFICE OF ATTORNEY GENERAL, 14<sup>TH</sup> FLOOR, STRAWBERRY SQUARE, HARRISBURG, PA 17120

Sincerely,  
Sheri L. Phillips  
Director  
Management Services Division