

Los Angeles Times

CRITIC'S NOTEBOOK

What the court didn't know

Pennsylvania set aside funds to move the Barnes collection to downtown Philadelphia long before a judge's ruling allowed it.

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October 16, 2006

In December 2004, a Pennsylvania court did the unthinkable. It ruled in favor of a controversial petition to relocate the greatest collection of Post-Impressionist and early Modern paintings ever assembled by an American art collector from its historic home in a wealthy Philadelphia suburb to a gritty site downtown.

There, as part of an evolving urban redevelopment plan, a powerful coalition representing the city's political, business and cultural establishment hoped to create an international tourist draw. The alluring magnet would be the nearly five dozen paintings by Matisse, 46 by Picasso, 69 by Cézanne, seven by Van Gogh, 181 by Renoir and scores more by other household names in art's firmament. All came from the fabled Barnes Foundation.

The court's decision to allow the move set off international howls of dismay. The ruling not only ventured into troubling legal waters but also paved the way for the destruction of a singular monument of 20th century American culture. The Barnes, founded in 1922, had been hailed by no less an eminence than Matisse as "the only sane place" for the display of art he had seen in America.

Now it appears the court decision to abandon "the only sane place" was made without a critical piece of information. What the judge did not know — in fact, what almost no one seems to have known — was that long before the court hearing even began, more than \$100 million had already been set aside for the scheme.

Who was the mystery benefactor? The state of Pennsylvania.

Two state appropriations for the Barnes Foundation totaling \$107 million were made 13 months before Judge Stanley R. Ott raised his gavel to begin final hearings in the Montgomery County Orphans Court. There is no indication that these appropriations were ever mentioned in court, where the deliberation focused like a laser on the Barnes' strained finances — and on the difficult prospects for fundraising necessary to accomplish the move. Nor did the earmarked money appear in any of the extensive mainstream press coverage generated by the case.

Ott, responding late last month to a letter of inquiry about one of the appropriations, written by a Barnes Foundation neighbor who had discovered it, replied that the query was "to my knowledge, the first I've seen or heard" of it.

A Times review of the appropriations bill turned up the second itemized allotment. Buried deep inside Pennsylvania's voluminous, multibillion-dollar capital budget for fiscal year 2001-02 was \$7 million for "restoration, stabilization and site enhancements for the Barnes Foundation." Amid hundreds of itemized appropriations for airports, roads, flood-control projects, office construction and other public improvements anticipated throughout the state, the Barnes money was hiding in plain sight.

Fifteen pages later, the budget set aside another \$100 million for "design and construction of a museum facility" to house the Barnes collection.

Oddly, both items in the 325-page budget came under the heading of Philadelphia projects. Yet the Barnes Foundation's primary home, in Lower Merion Township, and its subsidiary country house, Ker-Feal, are located in nearby counties.

Odder still is the yearlong legislative history of the appropriations bill. When introduced Nov. 16, 2001, it made no mention of the Barnes. When the bill was amended the following June 26, the \$7-million appropriation was included. When it was amended again on Oct. 8, the \$100-million appropriation had appeared. The state Senate approved the bill the following day, the House two weeks later. The governor signed it on Oct. 30.

The big Oct. 8 appropriation came just 13 days after a coalition of three powerful local philanthropies announced their plan to petition the court to radically alter the donor's wishes.

To allow the move downtown, the court needed to overturn a settled will — a reversal no court likes to make, given the negative impact such a precedent can have on future benefactors. Albert C. Barnes, a cantankerous but socially progressive pharmaceutical magnate, died in a 1951 car crash at 78 and left his Merion estate as a school dedicated to art appreciation.

But powerful forces had lined up behind the move. The Pew Charitable Trusts, the Annenberg Foundation and the Lenfest Foundation made the deal of the century. For their pledge to raise a relatively modest \$150 million to finance the move, they would effectively gain control of billions of dollars worth of Modern masterpieces.

Their only requirement was that the collection be moved 10 miles away from its leafy suburb to a spot on the Benjamin Franklin Parkway near the Philadelphia Museum of Art. Given the foundations' prominence and influence within the city's cultural life, the local art community was unlikely to object.

When the \$107 million in appropriations appeared in the state budget, Harrisburg was in the midst of a transition. Gov. Tom Ridge, tapped by President Bush in 2001 to direct the

new Office of Homeland Security, had stepped down Oct. 5. It fell to Lt. Gov. Mark Schweiker to serve out Ridge's term. (Schweiker is now involved in downtown redevelopment as chief executive of the Greater Philadelphia Chamber of Commerce.)

The copy of the capital budget available on the state's website does not reveal who put the pair of appropriations into the bill. But the two powerful state Senate Appropriations Committee chairmen both had ties to the art collection.

Republican Robert J. Thompson, who died in January, represented the Barnes' home counties of Montgomery and Chester. Democrat Vincent J. Fumo, the subject of a three-year federal corruption probe into whether he used a local nonprofit for political or personal gain, represents Philadelphia.

John Anderson's 2003 book "Art Held Hostage: The Battle Over the Barnes Collection" is the definitive account of the saga to date. It documents Fumo's close working relationship with lawyer Richard Glanton, the Barnes president who was ousted in 1998 after the foundation's small endowment was dangerously whittled away by mounting legal bills. The book describes Fumo as "a porkbarreler in the great Philadelphia tradition."

As if all that were not enough, in March Gov. Edward G. Rendell made the surprise announcement of a \$25-million state grant to aid the Barnes' relocation, which had hitherto been billed as a project using private funds. He said the sum would be increased "if necessary." Six weeks later, private fundraising for the move was complete — and the goal was promptly raised to \$200 million.

Rendell's announcement, arriving at a moment when fundraising appeared stalled, got the plan's opponents wondering where the state money suddenly came from. Rendell had been Philadelphia's mayor in the 1990s, during Glanton's tumultuous Barnes tenure, and he is credited with spearheading the city's downtown renewal project.

Whatever the solution to these puzzles, one thing is clear. A Pennsylvania court spent two years deliberating in the glare of an international spotlight over the fiscal stability of an unparalleled artistic resource whose fate hung in the balance — a decision that might set a dramatic precedent. Meanwhile, several Pennsylvania elected officials knew about \$107 million in appropriations nestled inside the state capital budget. No one said a word.

We can only wonder how, if he had known, Ott might have ruled on dismantling "the only sane place."

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