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“Tug-of-war over Barnes resumes” or “Opponents of Barnes Foundation move urge judge to reopen case”

by Derrick Nunnally

It has been more than three years since a Montgomery County judge ruled that the Barnes Foundation's \$6 billion art collection could move to Philadelphia. But opponents of the relocation yesterday implored the judge to reconsider his decision, contending a variety of new developments make it financially possible for the museum to stay in Merion.

"It's not too late to make a U-turn," Montgomery County deputy solicitor Carolyn Tornetta Carluccio told Judge Stanley R. Ott in Montgomery County Orphans Court.

Ott ruled in December 2004 that the art collection could be moved from Lower Merion Township to a new Philadelphia home, breaking the legal arrangements Dr. Albert Barnes made before his death in 1951.

Deputy state attorney general Lawrence Barth contended yesterday that opponents of the move were making "a thirteenth-hour run" at blocking it.

"Enough is enough," said Barth, who is representing the state, which supports the relocation.

Ott asked no questions during oral arguments yesterday, saying only that a decision would be issued "as expeditiously" as possible.

Speaking for the move's opponents, Carluccio and Eric Spade, attorney for the Montgomery County-based Friends of the Barnes Foundation, said the financial stakes have changed during the last three-plus years.

Lower Merion Township changed a zoning ordinance in July to allow 140,000 visitors annually to view the collection, twice as many as before. Montgomery County has offered to issue \$50 million in bonds to buy the institution's Latches Lane real estate and lease it back to the foundation. The Friends of the Barnes Foundation is trying to get the current site recognized as a national historic landmark, which would make it newly eligible for preservation grants.

Carluccio and Spade said the Barnes Foundation has been dismissive of each development.

"Their intent is to move to Philadelphia," Carluccio said.

A 99-year Philadelphia land lease on the Ben Franklin Parkway and \$150 million in donations for the new facility are arranged, said Barnes Foundation attorney Ralph Wellington. The foundation's art school would remain, however, at the Merion location. Wellington said the new petitions by Montgomery County and the Friends of the Barnes don't hold water financially and that the case can't legally be reopened.

"These offers may make good press, and they may make good politics," Wellington said, "but granting either of their petitions would make very bad law."