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Controversial Decision for Berkshire Museum

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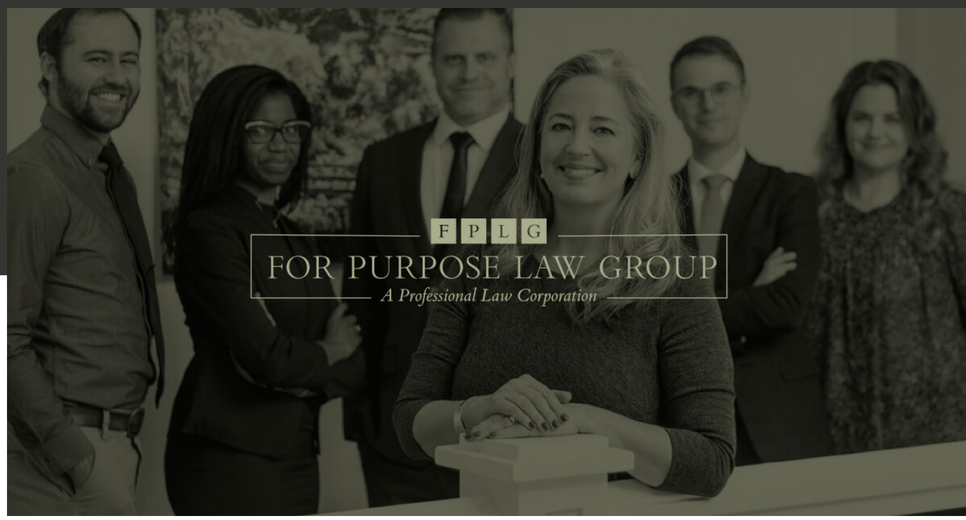

"What kind of 'ethical code' tells struggling museums it is better to go bankrupt than sell even one artwork to cover operating expenses?"

That's the question posed by University of Kentucky law professor Brian L. Frye, MFA, JD, in a recent Twitter thread about a controversy involving Berkshire Art Museum of Pittsfield, Massachusetts.

Reports of a decision by the financially beleaguered institution to deaccession some 40 works of art have prompted howls of protest from various quarters along with spirited defense from others.

Wrenching Choice for Museum

For over 100 years, the Berkshire Museum has been "the cultural beacon" of its community. It was founded by a family member of the owners of the Crane & Company stationery firm that still supplies paper on which United States currency is printed. But, now, that venerable institution "is overshadowed by the Berkshire region's world-renowned museums, including the Clark Art Institute, the Massachusetts Museum of Contemporary Art and the Norman Rockwell Museum."

Executive director Van Shields explains that "(t)he cultural landscape has changed dramatically and the Berkshire Museum has not adapted to that change." The financial woes that developed have worsened; the institution's annual deficit has been around $1.2 million for the past decade. Money is needed to "help establish a $40 million endowment and pay for $20 million in renovations as the museum refocuses its mission to become a more interdisciplinary and interactive institution more dedicated to history and science." Shields characterizes the Museum's stark choices as "an existential threat." The organization must "adapt, migrate or go extinct." A sale of many works of art, he explains, "is necessary to ensure the museum's very existence."

Not a decision taken lightly, it was a two-year process featuring multiple focus groups, many retreats by the board of trustees (which includes a member of the Crane family) and input from hundreds of community members.

Backlash from Museum Peers and Others

As soon as the sale decision was announced in July 2017, waves of criticism and "intense national and local pressure" surfaced. Opponents of the proposed move argue such an art auction violates "a cardinal rule of museums: Don't sell stuff to pay the bills." Works of art, according to critics of the Berkshire Museum's plan, are "usually sold only to fund further acquisitions."

The American Alliance of Museums and the Association of Art Museum Directors, in a joint statement, said that a "fundamental and long standing-principle" for museums is that "a collection is held in the public trust and must not be treated as a disposable financial asset." Such a sale "would be an irredeemable loss," they added.

Included in the important art works selected by the Berkshire Museum for auction are two by longtime area resident Norman Rockwell along with certain pieces that were gifts to the museum from Rockwell himself.

A vocal opponent of the proposed auctions is Leslie Ferrin, who operates a local firm that represents artists. She started a Facebook page for other members of the local arts community opposed to the sale. Members of "Save the Art at the Berkshire Museum of Natural History and Art" are working to persuade the Museum leadership to reverse this plan. "Selling gifts is against every moral and ethical standard" of museum operation, says Ms. Ferrin, who believes that the artwork will likely be sold to private collections, precluding public access.

Laurie Norton Moffatt, director of the nearby Norman Rockwell Museum, also opposes the sale. "For the museum's leadership, the potential price that these irreplaceable artistic treasures could fetch seems to have obscured their very rich role in the life of the Berkshires," Ms. Moffatt wrote in an opinion piece in The Berkshire Eagle newspaper. She continued: "To think that selling the art will save the future is simply to push the challenge down the road while diminishing the strength of the institution. Disassembling the unique treasure that is our regional museum to save it, is not saving it." Also, Ms. Moffatt wrote that selling the treasured assets "…poses a debilitating economic ripple effect beyond the museum" and "would be a profound spiritual loss to the community."

In the past, other museums making the same decision to sell off artwork "have found themselves ostracised by their peers." In a 2008 case, the Association of Art Museum Directors – for the first time ever – censured an art institution, "instructing its 180 members to stop lending to and collaborating with the museum in question, and releasing a hardline policy on the selling of works." The fear, according to an AAMD representative, is that "a board of trustees will see the museum as a bank." Similarly, in a 2014 situation, the punishment by the museum world was severe.

Berkshire's executive director Shields and the Museum's trustees "knew [they] were going to be pilloried," but made the deal final despite the vocal (albeit) minority opposition. "By switching its focus to science and history — and yes, some art will remain — the Berkshire Museum can fill a currently empty cultural niche in the region," according to Shields.

Conclusion

So – who gets a say in a decision like this? If the people with the fiduciary duties towards the Museum have pursued all reasonable due diligence, and thoughtfully and carefully made this painful decision, are there any other possible stakeholders? Are there overriding considerations that can be raised by colleagues and community members? And if a decision to deaccession some of the artwork is the only reasonable path, in light of financial realities, would the trustees violate their fiduciary duties by caving to the community or peer pressure from the museum community?

Are there additional arguments pro and con? For example, as OSU Professor Brian Mittendorf, CPA, asks in a tweet, is this "a cautionary tale to donors about not restricting gifts? Hard to argue this plan is consistent with donor's expectation."

— Linda J. Rosenthal, J.D., FPLG Information & Research Director