

FRIENDS of the BARNES FOUNDATION

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STATEMENT

Friends of the Barnes Foundation, BarnesWatch, and several individuals filed a Petition in February 2011 under the guidance of highly-qualified legal counsel, Samuel C. Stretton, Esq. The impetus for the Petition was newly available evidence of serious problems in the legal process that resulted in Judge Ott's 2004 Opinion granting permission for the transfer of the Barnes art collection from Merion to Philadelphia. The evidence included direct statements from former Attorney General Michael Fisher. The statements confirm Mr. Fisher's own threatening stance toward Lincoln University's Board as well as the application of public funds by former Governor Edward G. Rendell as tools to remove Lincoln from the Barnes case. Lincoln was the only party with full standing to intervene in the matter other than the Barnes Foundation and the Attorney General. The Barnes students, who participated in earlier hearings as "friends of the court" did not have the terribly important right to discovery. Discovery could have brought to light evidence showing that a) there was inadequate justification for breaking the Barnes Indenture of Trust; b) there were political motivations involved in the process; and c) the move of the Barnes art collection from Merion to Philadelphia was not in the public interest.

The Friends have advocated for preservation of the Barnes Foundation in Merion for many years, volunteers working tirelessly to raise awareness of the importance of the Barnes Foundation as a valuable, historic American resource. They and other citizen advocates have tried to show the public, the media, public officials, and the Barnes Board of Trustees why

dismantling the Barnes Foundation is destructive, unnecessary, and against the public interest. The Friends have voluntarily taken on projects that, in a properly functioning institution, would have been undertaken by the Barnes Foundation itself:

- Securing the change in the Ordinance from Lower Merion Township to greatly increase public access to the Barnes art collection in Merion;
- Commissioning a financial analysis of the Barnes Foundation by Professors Janes and Marcus, whose expertise is bankruptcy and organizations in financial distress, public policy, respectively;
- Commissioning an Assessment of the Barnes Foundation by Professor James Abruzzo, whose expertise is international museum management;
- Commissioning the 2007 Assessment of the Barnes Foundation as a National Historic Landmark, showing that the Barnes site in Merion is eligible for that honor -- the highest possible designation for an historical resource bestowed by the federal government;
- Securing an agreement from Montgomery County Board of Commissioners for a \$50-million bond arrangement to support an endowment for the Barnes Foundation at no cost to taxpayers.

The results of these endeavors were communicated to the Barnes Foundation. The authorized increase in accessibility permitted by the Township Ordinance of at least 125% was never implemented. Instead of access, admission ticket prices more than tripled. The evidence of the immense national historical significance of the Barnes Merion site was ignored. The offer of financial support from the County was summarily rebuffed.

All of these undertakings involved countless hours of volunteer time and considerable expense and yet, none of it posed a powerful counter-weight to the forces aligned to dismantle the Barnes Foundation. Only a Court action could do that.

Being sincere in their mission to advocate for preservation of the Barnes Foundation, the Friends had an obligation to file a Petition guided by a responsible and qualified attorney. And so, armed with newly available evidence and the services of attorney Samuel C. Stretton, the Friends proceeded. They did so not to be vexatious, not in bad faith, not in obstinacy, not out of arbitrariness as accused by the Barnes Foundation lawyers. They did so because they finally had

something new and powerful on which to build a meaningful case. The fact that some of the Petitioners had been involved in earlier proceedings and been dismissed is not evidence of vexatious behavior. It is evidence of their abiding commitment to seek justice in a full and fair legal proceeding, something the Barnes Trust and the public have never had. In a democracy, this is precisely the role of citizen advocates. It would be very troubling if the state would punish citizens for exercising that role.

Sam Stretton, Esq. will address the Court about the excessive legal fees and expenses submitted by the Barnes Foundation's lawyers of more than \$61,000, but a couple of things are worth noting. In their Brief, the Barnes lawyers expended many hours and many pages on the topic of the \$107 million state appropriation, pointlessly going into chapter and verse about the appropriation process. The appropriation was a mere detail in Samuel C. Stretton, Esquire's Petition, so why protest it in excruciating – and very costly – detail? The bizarre expenditure of time on that relatively unimportant topic is coupled by the complaint of the Barnes Foundation's lawyers that the Friends' Petition forced the Foundation to defend itself, rather than using its meager financial resources for education. This is a stunning claim from an organization that has spent breathtaking amounts on legal fees for proceedings initiated by the Barnes Foundation itself, even while claiming to be on the brink of financial ruin. One doesn't have to be a Barnes preservation advocate to be incredulous at this and other mounting evidence. But solidifying incredulity is not the goal. Justice is the goal.

Friends of the Barnes Foundation is an organization of citizen advocates working for permanent preservation of the Barnes Foundation in Merion, Pennsylvania as an intact, integrated cultural site bequeathed by Dr. Albert C. Barnes. For more information, visit the group's website at www.barnesfriends.org
