

THE BOX OF STUFF

(published Spring 2004, reviewed Fall 2004)

I was talking to my friend Lisa Hill Festa about a presentation I gave to her class for future curators on the Unclaimed Property Act, RCW Chapter 53.67. This is the Washington Statute that established a mechanism for museums to acquire title to items in the collection for which there is no documentation. How is it that museums seem to be continually acquiring property for which there is no documentation? A substantial part of the answer lies in the “Box of Stuff.” This is probably the source of most of the items that later are identified in the inventory as “found in the collection.”

Here is a common scenario. One cloudy day (remember I live in Seattle), a guy comes into the museum and plops a Box of Stuff on the Receptionist’s Desk. “We just cleaned out Grandma’s attic and my wife thinks some of this stuff may have historic value, so here it is. You can do whatever you wish with it, but I do not wish to be bothered by filling out any forms or signing any papers and stuff like that.” Worse than that, the Box of Stuff may be sitting on the doorstep when the museum opens. What’s to do?

The museum could adopt a policy not to accept such material. However, experience has shown that there often is material in the box that does, indeed, have historic significance and it would be a shame to have it go to the dump.

Whichever is done, it should be done in accordance with a written policy adopted by the Board of Trustees as part of the museum’s Collections Policy and a written procedure which implements that policy. The objective is to build a paper trail to support the right to make whatever disposition is made of the stuff in the box.

The first person or persons who come in contact with the box of stuff should prepare a statement setting forth exactly what happened. This statement may be in the form of an affidavit, which is subscribed and sworn to before a Notary Public, or may be in the form of a Declaration Under Penalty of Perjury, in which the party making the statement declares under penalty of perjury that the statement is true. Each one has the same legal effect. Each is like testimony in court. The affiant, like a witness, can only testify as to what he or she did or what he or she observed being done, not about something somebody told him or her happened (hearsay). For example:

DECLARATION UNDER PENALTY OF PERJURY

My name is Janice Doe. I am a volunteer at the Pioneer Museum in Alpha, Washington. One of my duties is to act as Receptionist for the Museum. Every visitor to the Museum will come past the Reception Desk.

**This identifies the witness, her position with the Museum, and what duties she performs that gave her knowledge of the event.*

On Thursday, June 10, 2004, I was acting as Receptionist for the Museum. At about 10:30 A.M., a man came to the museum with a box, which he said contained things he thought the Museum might be interested in having.

I thanked him for the donation and asked him where the items in the box came from. His answer was “My wife and I were cleaning out the garage and found this stuff - which I think came from her grandmother’s attic.” He declined to give me his name or address.

I gave him a copy of the museum's policy with respect to donations of this kind. I told him that we would inventory the contents of the box and give him a receipt for the items that he could use to support a tax deduction if he would tell me where to send it. He said we need not bother, he doesn't itemize. I said if he would give me his name and his wife's name, we would show a donated by card each time we displayed any item from the box. He said he was not interested. I asked what he wanted done with any of the things the museum did not want for its collection. He said he didn't care. He then said he was in a hurry and left.

**This is what Janice could testify to if she was in Court.*

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge and belief.

—Janice Doe

The Policy statement given to this "donor" should state as a minimum:

1. That the contents of the box are an unconditional gift.
2. That the museum will inventory the items as soon as practical.
3. That items will be divided into four categories:
 - a. Items that will be accessioned into the collection.
 - b. Items that will be made available to other museums.
 - c. Items that may be sold.
 - d. Items that may be recycled or disposed of as junk.

The person who finds the box of stuff on the doorstep should prepare a similar affidavit. Of course that person cannot report any conversation with the "donor." Instead they would state that where they found the box of stuff and that there were no indications that it was not intended for the museum.

The Policy adopted by the Board of Trustees will contain much more detail, for example: who makes the inventory, the standards for deciding the disposition of the items, and who decides what will be accessioned into the collection, or be offered to other museums, what will be sold and how, and what will be otherwise disposed of.

Items that do not fit in with the museum's collection, but are of historic significance should be offered to other museums. I believe that, as matter of ethics, items of historic significance once held by a museum in public trust should remain in the public trust and should not be sold to private collectors. Items which are not of historic significance but which have value may be sold to private parties, dealers, thrift stores, the museum store or by the museum itself at periodic auctions. However, in no event should any items be given or sold to an insider, i.e., a trustee, an officer, employee, or volunteer. Such sale or gift would represent a conflict of interest since the insider would have knowledge of the value of the item that is unavailable to the public. Further, a gift or sale to an insider would violate the provisions of the Internal Revenue Code against benefits that inure to insiders.

Does this procedure guarantee clear title to the museum? No, it does not. A spouse could appear claiming that the items were community property and he or she did not give consent to its disposition. (This is why both spouses should always sign a deed of gift.)

I recommend that the museum secure an appraisal of any items of other than nominal value to keep with the records of the transaction. This will prevent the spouse coming in and claiming an inflated value for the object. Also someone could appear and establish that the stuff in the box was stolen from him. Since a thief can never give good title, the person from whom the article was stolen may claim the stolen item from whomever has it. This is not limited to the stuff in the box. This condition would obtain even if the museum had a properly

executed unconditional deed of gift from other than the original owner. I suggest that if anything in the box of stuff appears to be of unusual value, the museum check with the local police to see if the item may have been reported as stolen.

If there are such policies in place and if the procedures are being followed, the museum can put the stuff from the box in the collection with confidence that its title is as good as it can get. The museum then will not have to wait five years and go through the procedures of the Unclaimed Property Act.

The procedures suggested herein are my own suggestion. If anyone already has procedures and/or has any experiences in dealing with a box of stuff, I would like to hear from you and get a copy of your procedures. I am sure improvements can be made in what has been suggested here that may benefit all museums. My e-mail is rsemgruhn@comcast.net

LEGAL NOTICE

Law Notes is intended to be an informational tool that generally outlines the broad elements of the legal and regulatory framework of a variety of Washington State and federal laws, which are of interest to or may affect museums in effect as of the date set forth. Accordingly, it is not within the scope of *Law Notes* to analyze specific legal policy or technical issues that may arise in museums. Specific questions about particular matters should be addressed in the context of the facts that underlie them. The information contained in *Law Notes* does not constitute legal advice and is not intended to take the place of legal counsel or other professional services. The author and the Washington Museum Association do not make any warranty or representation, either express or implied, with respect to the accuracy, completeness, or utility of the information contained in *Law Notes*. The Washington Museum Association and the author do not assume liability of any kind whatsoever resulting from the use or reliance upon the information, conclusions, or opinions contained in *Law Notes*.