

The dos and don'ts of artists' bequests

An increasing number of artists are becoming philanthropists. Setting up a foundation is one option but there is another way

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Stephen Pace leads a printing class at the University of Southern Indiana, Evansville, in 2005. The late painter's \$1.5m bequest to the institution included 273 works and funded a dedicated art gallery

Research reveals the variety of gifts

The Robert Rauschenberg Foundation's recent announcement that it aims to surpass the grant-making pace set by the wealthy Andy Warhol Foundation for the Visual Arts (The Art Newspaper, April 2012, p4) is one more sign that the previously little-known field of artist-endowed foundations has moved into the spotlight. The proliferation of these entities is a shot in the arm for the flagging cultural philanthropy field, and for that we are grateful. It would be a mistake, however, to assume that they are the only means artists are using to realise their philanthropic visions and heritage stewardship goals. In fact, recent years have seen remarkably generous bequests by visual artists in the US made directly to museums and universities without the intervening apparatus of a private foundation. Complex and costly to operate, private foundations are a viable option only for wealthy artists who can properly endow their philanthropic actions; bequests to institutions offer an important alternative for the majority of artists concerned with the beneficial disposition of their life's creative works and, as such, deserve closer attention.

Research by the Aspen Institute's national study of artist-endowed foundations, the first comprehensive examination of the topic, focused on private foundations, but also identified other options being used by artists to realise their posthumous philanthropy. By provision of the United States tax code, public charities, which include most museums and universities, are not required to report and identify donors and their gifts, as are private foundations. That leaves researchers with no consistent data on the number and scale of artists' bequests within this realm. Nonetheless, a review of press coverage finds evidence of generous gifts by artists in a variety of communities.

Beyond the blue chip

In 2001, Maine's Portland Museum of Art announced that it had received the bequest of the landscape painter William Thon (1906-2000). Key pieces were added to the museum's collection, but beyond this, Thon directed that his

remaining art be sold. The resulting gift, valued at \$4m, endowed a fund to support a named curatorial post as well as a biennial exhibition of Maine artists with a jurors' prize. The museum also implemented a project stipulated in the artist's will, distributing original works with supporting educational materials to almost 70 schools across the state of Maine. In 2009, Pennsylvania's Allentown Art Museum announced that it had received the art estate of the sculptor Peter Grippe (1912-2002), along with works by his wife, the ceramicist Florence Grippe. In addition to the artists' studio and homes, intended for sale to endow a related fund, the gift included works by leading modernists such as Calder, de Kooning and Lipchitz. At around 500 pieces, it is among the largest gifts received by the museum. In 2011, the new art centre at the University of Southern Indiana, Evansville, opened a retrospective exhibition of the second-generation abstract expressionist painter Stephen Pace (1918-2010), featuring selections from the artist's bequest of 273 works, 50 intended as a permanent collection. The \$1.5m gift from the artist and his spouse, comprising art and cash assets, funded the completion of the centre with a dedicated art gallery; an art scholarship had previously been endowed.

Lifetime legacy gifts

In 2001, the historian, educator and painter David Driskell (b. 1931) committed a collection to the University of Maryland at College Park to establish the David C. Driskell Center for the Study of the Visual Arts and Cultures of African Americans and the African Diaspora. In addition to his own works, the gift included those by artists such as Bearden, Colescott and Puryear. Other donors have signed on; from an initial 150 works, the collection now boasts 1,300 pieces. In 2002, the artist and printmaker June Wayne (1918-2011) donated more than 3,000 works to New Jersey's Rutgers University to establish a print study centre at the university's art school and enhance its art museum's print holdings. A selection of works was also set aside for sale to help fund the centre. Valued at more than \$5m, the gift included pieces by the artist and 128 others. The potter and influential educator Don Reitz marked his 80th birthday in 2009 by announcing

the gift of a four-acre property outside Phoenix that incorporates his studio, eight kilns and a gallery, all to be operated as an artist-residency programme under the auspices of Arizona State University's art school and art museum. Included was a collection of his works as well as pieces by many of his peers—a generation that, with members such as Voulkos, Soldner, and Karnes, has shaped the history of American studio ceramics.

The artists who are making these bequests are not the blue-chip names setting auction sales records, those more likely than not to be associated with an artist-endowed foundation. Instead, these artists are widely respected figures among the many hundreds who have defined their creative fields in the post-war years. That's good news, because there are many more artists of this type than there are those on the blue-chip list, signifying a much greater philanthropic potential overall. And these artists appear to be effective donors. They have made their plans with institutions or leaders they know. They tend to choose as their beneficiaries regional institutions outside the urban cultural centres, or younger, aspiring organisations; an astute donor understands that the preferred beneficiary is one for whom the gift will make a substantial difference. Lastly, the scale of the bequests (\$1m to \$5m), while insufficient to create a robust, free-standing private foundation, can have a real impact when committed to an existing institution with established capacities.

Donors beware

What makes for a successful bequest? In all cases, the guidance of expert trust and estate counsel is essential, and the artist must make sure that he or she secures the appropriate advice. Any legacy should be planned carefully in advance with the intended beneficiary lest a declined bequest derail an entire estate plan. This is true particularly of bequests that establish endowed funds and add works of art, which must be conserved and maintained, to a collection, as well as those that commit an artist's facilities for future or ongoing use. If the artist's intellectual property is included, the testamentary documents should be

drawn up by counsel knowledgeable about that tricky topic; failure to do this properly can produce a tangle of conflicting interests among charitable beneficiaries and statutory heirs to copyright termination rights. Likewise, museums and universities change leaders at a surprising pace, so an artist's intentions should be articulated clearly and not assumed to be sustained in the years ahead by personal agreements. Bequests to establish new programmes and institutions should specify alternative charitable beneficiaries if the initiative were to fail.

Museums and universities accept only those gifts consistent with their charitable purposes and capacities, and rightly so. They are not likely to consider bequests lacking sufficient resources to fulfill obligations for care and use. Those who receive bequests including works of art to be sold have particular concerns. To comply with the field's ethical standards, which require an institution's decisions to be made in the public interest and not unduly influenced by the marketplace, museums must separate their own exhibition activities from the sales programmes of the galleries they appoint to handle works intended to generate funds. In addition, unlike accessioned collections, accounting standards in the US stipulate that the financial value of works intended for sale be reported in museums' annual financial statements. Some museums have faced public criticism for selling bequeathed works of art to support activities other than art acquisitions and direct care of collections, the sole uses permitted by deaccessioning guidelines. An artist's intent for all aspects of a bequest, but particularly concerning sales of works and use of the proceeds, should be stated explicitly and the nature of the gift communicated transparently by the museum to the public.

Much at stake

Despite the global economic downturn, demographics are propelling the largest generational transfer of wealth in history, and this includes artists, many of whom aspire to see their lives' creative works achieve a long-term beneficial impact. As

these examples indicate, a broad stream of philanthropic potential flows through the nation's artistic communities, one that, in the form of artists' bequests, is enriching the collections of regional art museums and educational institutions and making them loci of generative support for artists, scholars and students. As the charisma of artist-endowed foundations continues to expand, we must shine an equal light on the well-crafted estate plans of artists whose more modest efforts, when taken together, will play an equally important role in defining the philanthropic character of this artistic generation. What's the verdict? Thank heavens for Bob Rauschenberg and Andy Warhol; but hats off to the likes of William Thon, Peter Grippe, Stephen Pace, David Driskell, June Wayne and Don Reitz.

The writer is a former Ford Foundation deputy director for media, arts and culture, and is the study director of the Aspen Institute's national study of artist-endowed foundations. This article draws on research featured in "The Artist as Philanthropist: Strengthening the Next Generation of Artist-Endowed Foundations"—www.aspeninstitute.org/psi/a-ef-report