

What To Do With Inherited Art

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Inherited art can be sentimental, beautiful, and valuable, but it can sometimes feel overwhelming. Depending on your personal situation, you have several options: you can keep and preserve the artwork, donate it to charity, or sell it. Regardless of your choice, it's crucial to ensure the artwork is properly insured, stored, and transported. Additionally, valuable or sentimental pieces should be included in your estate plans to ensure they are passed down to future generations.

To protect yourself and your inheritance, there are several tips and best practices you can implement when you find yourself as a benefactor of fine art. Being prepared is essential in case the worst happens, such as damage occurring during transportation, while in storage, or when displayed in your home or gallery.

The First Steps

You should first do your own research about the art you inherit. Take thorough photos of each piece of art.

Next, you should catalog any significant and identifying information about each piece, such as :

- the name of the artist,
- the title of the work,
- the dimensions,
- the medium,
- the condition of the art,
- the subject matter,
- the year of creation,
- whether the art was exhibited (where and when),
- the date upon which each piece of art was purchased,
- whether the art falls under the category of cultural property, the provenance (ownership history) of the art,
- and any other distinguishing or important information about the art.

You should also pull together any documents necessary to prove the authenticity of each piece of art you inherit (including any certificates of authenticity, invoices, literature references, and previous appraisal details). This information will help determine the value of the art you have inherited.

After you have done your own research, you should have your art appraised by a professional. This will give you the additional guidance you need to decide what to do with the art, as well as to determine steps you need to take to protect it.

Getting Your Art Appraised

Appraisals must be up to date for tax purposes, as well as for insurance purposes. There are three major professional organizations of appraisers: (1) the American Society of Appraisers, (2) the International Society of Appraisers, and (3) the Appraisers Association of America. (If your inheritance is new, you should check with the estate executor to see if an appraisal was already completed for this purpose. If so, you should be able to use that appraisal).

It is best to select appraisers who are knowledgeable about the specific type of art being evaluated. This expertise will help you make an informed decision about what to keep, donate, or sell, as well as how to properly transport, store, and insure your art.

The appraiser will assess and photograph each item and research the sales of comparable items in order to determine the value of the art you have inherited. The appraiser you retain should examine your art in detail and support any valuations with thorough market research.

All this information will be essential when working with an insurance broker to insure your inherited art. Knowing the value of the items will also guide you if you decide to sell them, gift them, or include them in your estate planning.

What To Do With Pieces That You Decide To Keep

The next steps involve properly transporting, insuring, and displaying the art you decide to keep.

Any art you decide to keep should be shielded from the harmful ultraviolet rays of the sun. Place your artwork away from windows to avoid damage from bright light. Consider framing it with special glass designed to protect against UV rays and discoloration. Additionally, monitor humidity levels in your home to ensure that your art is not damaged by moisture and mold.

Never store your art rolled up in cardboard or plastic tubes. This can cause paint to stain, crack, or become dry. Art should always be properly stored flat in an acid-free print box, which can be purchased from conservation suppliers.

If you do not have appropriate space for any art you inherit, a common option is to have it crated and stored it in a facility that specializes in the storage of fine art and offers a temperature and humidity-controlled environment.

Be sure to closely review the terms under which your art is stored. It is advisable to seek the assistance of skilled legal counsel, where appropriate, to ensure you receive the full replacement value if your art is damaged while in storage. You might be surprised to learn that most storage facilities -- even those specializing in the storage of fine art -- have a default liability level of typically \$1.00 per pound *or less* for damaged or lost items. This means that if your art is damaged while in the care of an art storage facility, the facility will only be required to reimburse you \$1.00 per pound, or less. Additionally, be sure to include any secured lenders with an interest in the artwork when making these arrangements.

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For certain art, another option may be to publicly display it in a gallery or museum.

The terms under which your artwork will be transported, as well as the terms under which your art will be publicly displayed are important and often complex. Art can be damaged or lost during transportation, so it is important to make sure that you have appropriate art shipment insurance to adequately cover such losses. Different types of coverages are available, including comprehensive, named peril, and all-risk coverage. It is crucial to select a policy that provides adequate coverage. When in doubt, your coverage should be carefully reviewed with the assistance of a specialized insurance broker, or an attorney experienced in transportation and insurance coverage law, in order to avoid unwelcome surprises.

If you do happen to receive a damaged art shipment, promptly photograph and otherwise thoroughly document the damage. Make careful note of any sign that the shipment was mishandled or improperly packed. Contact the shipping company and your insurance carrier to report the damage and make a claim. If your art is lost during transportation, immediately report the loss to the shipping company and your insurer, then file a claim. For very valuable art, it is best to involve an attorney with appropriate experience in transportation and insurance coverage law early in this process so that you have the best chance of achieving full compensation for any damage or loss.

Selling Your Fine Art Inheritance

If you wish to sell (as opposed to donate) your inherited art, depending on its value, you can either consign it to a gallery or auction house, work with a private dealer, or sell it outright (for instance to an antique shop or an online marketplace).

As noted above, the essential first steps are to do your own research, verify the provenance of the art, and have the art appraised by an expert.

Auction houses can assist you with an estimate of how much the art is anticipated to bring at auction. Once you agree to a pre-sale estimate and attendant fees, your art will be photographed, placed in a catalog, and offered at auction. Typically, you are responsible for facilitating the transportation of your art to and from the auction house, though the auction house may recommend certain preferred providers.

Note that if your art is damaged or lost by a professional art transporter, the standard reimbursement is typically \$.60 cents per pound. This means that if your artwork weighs only 5 lbs., you may find yourself quite literally running the risk of receiving \$3.00 for your \$3,000,000 lost or damaged artwork. Once again, seeking appropriate legal counsel is crucial so they can thoroughly review and help you understand the terms of transportation, and provide guidance regarding the best coverage options against loss or damage while the art is in transit. Please keep in mind that it is generally unwise to cut costs by using standard carriers such as FedEx or UPS, which have extremely low declared value limits on fine art shipments (such as only \$1,000).

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In terms of fees for services rendered in the sale of your art, galleries and art dealers will take a fee or commission on any art they sell, and may also charge a monthly fee for displaying and/or storing your art. Alternatively, auction houses require a Buyers Premium be paid to them upon the sale of anything placed with them; however, that premium (a percentage of the sale price, and usually in the range of 30-40%) will be paid by the purchaser, and not by you. Once again, legal counsel is critical, as the terms and fees are agreed on and documented in a formal contract.

Of course, you could possibly sell your art outright to a gallery, auction house, or fine art dealer. A knowledgeable and reputable dealer will offer their advice as to whether an outright sale to them vs. a consignment would likely maximize your return when the art is sold.

Whether consigning or selling, it is critical to understand how any art that you transport for any reason will be insured. Even the most prestigious art galleries or auction houses can experience damage or loss. You may want to enlist the help of an insurance broker or experienced attorney to navigate this process if your art is damaged or lost while in the possession of a transporter or seller, promptly notify the appropriate insurance company or companies to file a claim. It is also important to contact an appropriately qualified attorney to assist you with insurance claims matters to help maximize the recovery of your losses.

Donating Your Fine Art Inheritance

Donating art may have attractive tax benefits. You may choose to donate art outright or place it on loan or permanent loan. Care must be taken, however, to work with a seasoned estate planning attorney and tax professional to ensure that you are complying with all applicable tax laws, as well as receiving the full tax benefits associated with your donation.

How Can We Help?

At Flaster Greenberg, our transportation law attorneys can assist you with the necessary review of the paperwork associated with the transportation and storage of your art to make sure you are properly protected.

Our insurance coverage attorneys can refer you to an insurance broker who specializes in the insurance of fine art and antiques. We can also assist you in reviewing your insurance policies and making suggestions as to what coverages would be best to protect your art.

Our tax and estate attorneys can also help you maximize the tax benefits available to you with regard to any art or antiques that you may wish to donate or incorporate into your estate planning.

ATTORNEYS MENTIONED

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