

**Embargoed for release**  
**4:30 p.m. FRIDAY, FEBRUARY 9, 2018**

**SUMMARY**

The Office of the Attorney General (AGO) and the Berkshire Museum have filed a petition with the Supreme Judicial Court of the Commonwealth of Massachusetts seeking approval of the following agreement to end litigation between the AGO and the Museum.

**With this agreement, the AGO and the museum jointly recognize:**

- A shared responsibility for the collection of the Berkshire Museum and to the community it serves;
- The Berkshire Museum faces serious financial challenges including a dwindling endowment, a weakening fundraising climate, and an annual operating deficit of \$1.15 million—that will force it to close within the next several years absent a substantial infusion of capital of approximately \$60 million;
- Fundraising alone will not be sufficient to generate the capital necessary to ensure the Museum’s survival;
- The AG’s Office, through its investigation, determined that the Berkshire Museum met its demonstrated financial need to deaccession assets;
- A two-year Master Planning Process, including extensive input from hundreds of members of the community, financial guidance from a respected non-profit consultant, and consideration of alternatives to deaccession, led to development of a plan that will allow the Museum to continue fulfilling its mission;
- A shared commitment to ensure public access, especially in the Berkshires, to Norman Rockwell’s *Shuffleton’s Barbershop*;
- The AGO believes court review is necessary before any sale, and the Museum has filed a cy pres petition with the Supreme Judicial Court; and
- The importance of finding a solution that will help this community resolve its differences.

**Key terms of the agreement:**

- The Museum filed a cy pres petition, to which the AG’s Office assented, filed with the Supreme Judicial Court today, which outlines the terms of the settlement.
- If approved by the SJC, the Berkshire Museum will be authorized to sell art works to meet its financial need , with the agreement structured so that the Museum may reach its financial goal without necessarily selling all 40 works.
  - This authority extends to the 19 items the museum acquired before 1932.
- The Berkshire Museum can structure the sale of these works in an effort to raise up to \$55 million, specifically:
  - \$50 million of the net proceeds to the Museum may be used by the Museum without restriction;

- Net proceeds between \$50 - \$55 million will be held by the Museum in a separate fund for the benefit of the Museum's collection and to be used for acquisitions and to support the Museum's collection, including in connection with the New Vision;
- Any net proceeds that exceed \$55 million will be held by the Museum in a separate fund for the benefit of the Museum's art collection and to be used for acquisitions and to support the Museum's art collection, including in connection with the New Vision.
- A non-profit U.S. museum has made an offer, obtained by the museum with the support of the AGO, to purchase *Shuffleton's Barbershop* with conditions ensuring the work will remain in public view, including:
  - Within 120 days of finalizing the acquisition of *Shuffleton's Barbershop*, the buyer will initiate a loan of the work to the Norman Rockwell Museum for a period of 18-24 months;
  - Following the loan to the Norman Rockwell Museum, the buyer will explore the possibility of loaning *Shuffleton's Barbershop* to other museums in the Commonwealth of Massachusetts, such as the Museum of Fine Arts in Boston or the Worcester Art Museum;
  - The buyer will ultimately display *Shuffleton's Barbershop* in a place of prominence within its museum and will consider periodically loaning the work to museums in Berkshire County and to museums in the United States and around the world.
- The remaining works will be sold in three groups, or tranches, as determined by the museum, until the museum receives \$55 million in net proceeds, including the net proceeds from *Shuffleton's Barbershop*:
  - This means the Museum may not need to sell all 40 deaccessioned works; and,
  - The Museum can sell these works in private sale, even for a lower price than would be received through public auction, if that means these works will be accessible to the public.

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