



Helpful Definitions When Dealing with Old Loans

Accession: (1) An object acquired by a museum as part of its permanent collection; (2) the act of recording/processing an addition to the permanent collection (Nauert 1979); (3) one or more objects acquired at one time from one source constituting a single transaction between the museum and a source, or the transaction itself (Burcaw 1997).

Actual notice: Written notice that is received in fact by the person to be notified.

Adverse possession: A method of acquiring title to property by possession under certain conditions including that the possession must be adverse to the owner, actual, continuous, and exclusive.

Bailment: A legal relationship created between a lender and borrower of property whereby the borrower keeps the property until the lender reclaims it.

Bailor, bailee: The bailor (lender) is the party who delivers the property to the bailee (borrower) in a bailment relationship.

Cause of action: Facts that give a person the right to bring his or her claim to court.

Common law: Refers to legal principles that do not rest for their authority on any express statute, but rather upon statements of principles found in court decisions.

Constructive notice: Notice that is implied by law rather than notice that is actually mailed and received by the person being notified such as legal notices published in a newspaper.

Deaccession: (1) an object that has been removed permanently from the museum collection; (2) formal removal of accessioned objects from the museum's permanent collection. Objects removed from the unaccessioned collections of the museum are not considered deaccessions, but need to go through a formal removal process. See also: disposal.



Deed of gift: A written instrument that transfers Ownership of an object or objects from a donor to an institution. It should include all conditions of the gift. It must be signed by the donor and contain a signature of acknowledgement of receipt of gift by the institution.

Discovery Rule: An attempt to balance the repose that is essential to stability in human affairs (that is the reason for statutes of limitations) with a desire to afford plaintiffs every opportunity to press claims in court. It provides that a cause of action will not accrue until the injured party discovers, or by exercise of reasonable diligence and intelligence should have discovered, facts that form the basis of a cause of action.

Disposal: The act of physically removing object/s from a museum collection. See also: deaccession.

Expired loans: Loans of limited duration for which the termination dates have passed.

Fractional gift: A donation of an object or collection of objects to which the museum does not receive full title. A fractional interest gift is one in which the museum is given a present fractional interest and the donor retains the remaining fractional interest. In these cases, the museum is entitled to possession of the object for that portion of each calendar year equal to its fractional interest in the property (Nauert 1979).

Incidental taking: Any taking otherwise prohibited, if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Incoming loan: An object borrowed by an institution. It is an incoming loan from the perspective of the borrowing institution; such a loan could be an outgoing loan to the lending institution (Nauert 1979).

Indefinite loans: Loans that have no set duration.

Laches: An unreasonable delay that makes it inequitable to give the relief sought by a party in court or delay that warrants a presumption that the party requesting relief has waived his rights.



Loan agreement: A contract between a lender and a borrower of an object or objects, specifying the object(s) and outlining the conditions of the loan and the respective responsibilities of each party.

Long-term loan: An object loaned to a museum for long-term use. For record keeping purposes, long-term loans are often treated as a part of the permanent collection.

Objects Found in the Collections (OFC): Objects that lack any significant documentation as to how they were added to the collections. In other words, the museum knows that these objects have been in its possession for some time yet, if called upon, it cannot prove ownership with certainty because there are no definitive records as to their origin or status. OFCs differ from old loans in that the museum has a record that the objects were on loan.

Old loans: Expired loans or loans of unlimited duration left unclaimed by lenders at the museum; the term also includes unclaimed objects left at the museum under informal custody arrangements for study or examination by museum staff. (sometimes called Unclaimed loans)

Permanent loans: The possession of an object is transferred to an institution under a loan arrangement, yet the owner does not intend to return to claim the object. Permanent loans are often treated as a part of a museum's permanent collection.

Possession: The detention and control, or the manual or ideal custody of anything that may be the subject of property, for one's use and enjoyment, either as owner or as the proprietor of a qualified right in it, and either held personally or by another who exercises it in one's place and name. Possession includes the act or state of possessing and that condition of facts under which one can exercise his power over a corporeal thing at his pleasure to the exclusion of all other persons. Possession includes constructive possession, which means not actual but assumed to exist, where one claims to hold by virtue of some title, without having actual custody.

Provenance: The term used for the background and history of ownership for works of art and historical objects. The more common term for anthropological collections is "provenience," which defines an object in terms of the specific geographic location of origin. In scientific collections, the term "locality," meaning specific geographic point of origin, is more acceptable (Nauert 1979).



Registration: The process of developing and maintaining an immediate, brief, and permanent means of identifying an object for which the institution has permanently or temporarily assumed responsibility (Nauert 1979).

Statutes of limitations: Laws that require that claims be brought to court within a limited time period or otherwise the right to claim is barred.

Undocumented objects: Objects in museum collections that lack any useful documentation as to how they were acquired.

Bibliography For Definitions:

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Nauert, Patricia. Glossary in *Museum Registration Methods*, by Dorothy H. Dudley and Irma B. Wilkinson. Washington, D.C.: American Association of Museums, 1979.