Protecting Your Community’s Cultural Heritage: Fine Arts and Historic Structure Risk

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Session Objectives

• Establish a risk awareness framework to examine the following:
  - Common valuation challenges
  - Statutory issues
  - Risk control
  - Recovery and restoration

• Understand risk management best practices

• Access resources to assist in shaping your risk management strategy
Historic Buildings

Washington Monument

5.6 Magnitude Earthquake – August 23, 2011
**Definition – Historic Building**

- Any structure that is:
  - Listed individually or preliminarily determined as meeting the requirements for listing on the National Register of Historic Places
  - Certified or preliminarily determined as contributing to the historical significance of a registered historic district
  - Individually listed on a state or local inventory of historic places

  *FEMA, NFIP Definition*
Insurance policy example
Real property that is:
- Certified and listed individually in the National Register of Historic Places
- Located in a National Register historic district and certified as contributing to the historic significance of said historic district
- Located in a local historic district and has been certified by the applicable federal, state or local authority as contributing to the historic significance of said local historic district
- Not certified as a historic property but is of old age, high quality and represents a prior vintage, a past period of time or bygone era
Valuation Challenges

Full valuation is difficult to measure

• Factors not included in analysis:
  - Cultural
  - Educational
  - Historic

• Past practices:
  - Acquisition cost
  - Market value
  - Standard insurance valuations
Standard Valuation Clauses

• **Actual Cash Value**
  - The cost to replace with new property of like kind and quality, less depreciation

• **Replacement Cost Value (RCV)**
  - The cost to replace the property on the same premises with other property of comparable material and quality used for the same purpose

• **Agreed Value**
  - This method places much greater reliance upon the accuracy of declared values
Variations of Valuation Clauses

• **Functional Replacement Cost**
  - Performs the same function with equal efficiency, even if it is not identical to the property being replaced

• **Guaranteed Replacement Cost**
  - No depreciation and no maximum reconstruction payment – the insurer sets the replacement cost and automatically increases it as needed
• **Amended basis of valuation for historic buildings**
  - Amends RCV to include additional expense incurred to reinstate and maintain the historical and artistic integrity of the property including the use of traditional materials, methods and practices in keeping with the property and its environs

• **Increased cost of replacing historic property sublimit**
  - One limit to apply on a per-occurrence basis, rather than adding the full cost of historical replacement to all the values
“… replacement cost for antique, restored or historic buildings shall mean the cost of repairing, replacing, constructing or reconstructing (whichever is the less) the property on the same site using materials of like kind and quality necessary to preserve or maintain a building’s historical significance without deduction for depreciation.”
“If the same workmanship, building and architectural materials are reasonably available, the valuation of the repair, rebuild or replacement will be based on the workmanship and architectural materials that are reasonably available.”

OR

“If the same workmanship, building and architectural materials are not reasonably available, the valuation of the historical building will be based on the cost to repair or replace with workmanship, building and architectural materials that closely resemble those that existed before the loss or damage occurred.”
Other Considerations

- Prior renovation or restoration
- Ordinance or law
- Business income/extra expense
- Extended time to restore
- Historic certification expense
- Upgrades
  - Electrical
  - Plumbing/HVAC
  - Fire suppression
  - Security
  - Green/LEED
• Absolutely no other way to determine accurate value

• Hire a professional
  - Qualifications
  - Professional accreditation
  - References
  - Segment-specific experience

• Establish review schedule

• Match with your valuation methodology

• Provide documentation
  - Original plans
  - Photos
  - Architect, engineer and contractor notes
Valuation Challenges

- Historic register
- Native stone
- Over 100 unique columns and ornamentation
- 9-story clock/bell tower
- 20” plaster on brick walls
- Other features
  - Stained glass
  - Original bell in tower
  - Copper gutters/downspouts
  - Detailed woodwork
Cost Analysis

- Estimating serviceable lifespan
- Preventative maintenance
- Planning reduces “flight from quality”
- Inspection
- Diagnosis
- Scheduled repairs
- Building “pathology”
Americans with Disabilities Act (Title II)
- Secretary of the Interior’s standards for historic buildings
- Maintain integrity of building
- Functional versus experiential building
- Access to building versus access to program
“... a public entity is not required to take any action that would threaten or destroy the historic significance of an historic property. In cases where physical access cannot be provided because of either this special limitation, or because an undue financial burden or fundamental alteration would result, alternative measures to achieve program accessibility must be undertaken.”

Innovation
Other Compliance Issues

• Environmental
  - Asbestos
  - Lead

• Cultural

• Archaeological

• Structural integrity
  - Seismic

• Safety
  - Construction codes (electric/plumbing)
  - Fire
  - Ingress/egress
• What kinds of disasters are most likely in the given location?
  - Risk matrix

• Whose input is needed to develop a disaster readiness plan?
  - Historical societies

• Who governs policy?
  - Organizational and communication matrix

• Communicate the plan to all participants?
  - Emergency responder planning and coordination

• How should resources, people and supplies be organized?
  - Staging

• What are the most important things to save?
  - Inventory
  - Maps to allow quick response
  - Off-premises storage
Historic Buildings – Risk Evaluation Framework

• **Inventory**
  - Interior
  - Exterior

• **Documentation**
  - Original plans
  - Prior changes
  - Land records
  - Sketches/drawings, photos (past and current)
  - Architect, engineer, contractor

• **Contingencies**
  - Reclaimed materials
  - New material
  - Reproduction material
  - Modern substitute

• **Building use analysis**
  - Appropriate
  - Condition
  - Regulatory
  - Site
Historic Buildings – Risk Evaluation Framework

• **Condition Assessment**
  - Inspection
  - Cost analysis

• **Options**
  - Deferral
  - Preservation
  - Restoration
  - Rehabilitation
  - “Mothballing”
  - Teardown
Fine Arts
Art produced or intended primarily for beauty rather than utility

Fine art includes, but is not limited, to sculpture, photography, drawing, multimedia art and painting. Fine art shall not include the following:

- Decorative, ornamental or functional elements designed by the architect or other design consultant retained for the design and construction of the subject building
- Art objects that are mass-produced with a standard design, such as fountains and statuary objects
- An artistic or architectural element that is a structural part of a building
- Decorative art
Heritage Health Index

• Context
  - 4.8 billion artifacts
  - 30,000 archives, historical societies, libraries, museums, research collections

• Immediately at risk
  - 4.7 million works of art
  - 13.5 million historic objects (flags, quilts, pottery, presidential china)
  - 153 million photographs
  - 270 million rare and unique books, periodicals and scrapbooks

• Major deficiencies
  - 26% of institutions have no environmental controls
  - 65% of institutions have had damage due to improper storage
  - 26% have no or inadequate security measures in place
  - 80% do not have an emergency plan
Heritage Health Index

- Give priority to safe conditions
- Develop an emergency plan
- Train and assign responsibilities to staff
- All levels of government must provide support
• **Value of art**
  - Commercial
  - Social
  - Aesthetic

  
  ❖ *The Value of Art: Money, Power, Beauty by Michael Findley, 2014*

**Practical valuation**
- Fair Market Value (legal/regulatory term)
- Current Market Value (more common insurance term)
- Cost Approach compares the item being appraised with the cost to replace (by purchase, production or reproduction) the item with a new or comparable substitute
- Retail Replacement Value (RRV)
• **Fair Market Value (FMV)**
  - The price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts


• **Factors in FMV**
  - Provenance
  - Condition
  - Authenticity
  - Exposure
  - Quality
Fine Arts – Valuation

• Qualified professional appraiser (accreditation)
  - American Society of Appraisers (ASA)
  - The Appraisers Association of America (AAA)
  - International Society of Appraisers (ISA)

• Elements
  - Letter of transmittal
  - Statement of purpose
  - Type(s) of valuation
  - Narrative (research methods, applicable market, condition, provenance)
  - Limiting conditions/liabilities

• Uniform Standards of Professional Appraisal Practice (USPAP)
  - Ethical guidelines
  - Mandates certain reporting protocols
  - No guidance to the methodology to be used by the appraiser
Deaccessioning is defined as the process by which a work of art or other object is permanently removed from a museum’s collection.

- “There must always be a strong presumption against the disposal of objects to which a museum has assumed formal title.”

  *The International Council of Museums – Code of Ethics*

- “Museums must remain free to improve their collections through selective disposal … and intentionally to sacrifice objects for well-considered … purposes.”

  *The American Alliance of Museums – Code of Ethics*
• Determine if the institution has authority to dispose of the object.
• Consider the institution’s mission and its public trust responsibility.
• Obtain a written appraisal prior to deaccessioning.
• Obtain authorization from the appropriate authority.
• Document the deaccession process.
• Create a permanent record of the decision and disposition and how it supports the institution’s goals.
• Notify the donor, if appropriate.
• Determine the appropriate method for disposal of the object.
Criteria for Deaccession

- **Inappropriate for particular department/collection**
  - Erroneous attribution/known to be inauthentic (an inauthentic object shall be marked indelibly and never returned to the market)
  - Inappropriate for the particular collection
  - Inferior to or a near duplication of another object in the collection
  - The work is in poor condition and unworthy of treatment even for curatorial study or technical research

- **Restitution/returned to rightful owner**
  - Has been legally requested for restitution
  - Legally claimed by another party or entity as stolen cultural property or stolen property

- **Infrequently or never exhibited**
  - The work is exhibited infrequently or never exhibited (not applicable to materials that are exhibited infrequently due to their sensitivity to light exposure)
Deaccession RM Strategy

• **Asset**
  – Deploy resources to other critical areas

• **Maintenance**
  – Both cost and lack of secure facilities

• **Title**
  – Donor intent

• **Visual Artists Rights Act (VARA)**

• **Public perception**
  – Currently unpopular works not indicative of future generation tastes
• Applies to works of “visual art” sold or created after June 1, 1991

• Amends copyright law providing new rights for visual artists

• The destruction of a work … by an intentional act or an act of gross negligence is a violation of the artist’s right and would subject the person destroying the work to suit for damages by the artist
Emergency Planning

• **Before**
  - Mitigating measures
  - Preparedness measures

• **After**
  - Response measure
  - Recovery measures
Mitigation

• Eliminate the hazards that threaten the objects

• Reduce the effect of those hazards

• Most frequent causes of loss
  - Transit (including packing)
  - Water damage
  - Weight of ice/snow, seepage
  - Severe rain/cooling system leaks
  - Fire, smoke, soot
  - Poor storage facilities
  - Other environmental damage (light, humidity, temperature)
• Preparedness measures are put in place so that responsible personnel can act appropriately during an emergency, particularly if a disaster might be imminent and consequent damage could be averted or minimized.

• Preparedness includes staff training and the development of call lists, resource lists and stockpiles of supplies and equipment.

• Some preparedness measures must be put in place before anything happens, while others come into play only as an emergency develops.
Recovery

• Enable the continuation of the institution’s mission
  - Orderly
  - Phased
  - Reasoned
  - Methodical fashion

• Begin when situation has stabilized
  - Reestablish stability
  - Professionals have evaluated the damage
  - Determination of further, long-term actions
  - Recovery can be a long process
• **Property covered**
  - Paintings, drawings, antiques, sculpture, video/photography
  - Objects of rarity or historical significance
  - Pair or set
  - Repair/replace

• **Perils covered**
  - “All risks,” subject to exclusions
  - Common exclusions
    - Wear and tear, inherent defect
    - Damage during restoration, repairing or retouching
    - War, terrorism, nuclear
    - Confiscation

• **Where covered**
  - Worldwide
  - In transit/exhibition
  - On loan
• **Covered entities**
  - Insurable interest
    - Owned by entity
    - Property of others on long-/short-term loan
    - Awaiting acceptance of gift by trustees
    - Jointly owned property

• **Valuation**
  - Methods described (CMV, RRV)
    - Regular inventory and valuation reviews for owned objects
  - Agreed value based upon schedule
    - Value of short-/long-term loans
    - Donations
    - Restoration cost, plus depreciation

• **Loans and other interests**
• **What are the goals**
  - Financial stability
  - Community mission
  - Faithful representation

• **Determining the total value to insure**
  - Highest-valued object
  - Probable maximum loss

• **Risk appetite**
  - Should you align with standard building/contents
  - Concentration of values
  - Acquisition in the context of irreplaceable objects
Other Considerations

- Reference library
- Conservator’s E&O
- Title insurance
- Outdoor sculptures
- Public art
- Concentration of values
- U.S. government indemnity
Use Your Current Framework

Risk management flow

Risk assessment
- Identify risk
- Analyze risk
- Evaluate risk

Risks to be treated

Risk treatment
- Accept risk
- Mitigate risk
- Reporting & escalation

Continuous monitoring
- Threats/opportunities
- Follow-up Compliance assessments

- Risks/activities decided to be monitored
Key Takeaways

• Intersection and integration of historic buildings/fine art
• Every entity has exposure to some degree
• Regular maintenance, protection and storage review
• Develop and monitor a crisis management plan
• Alignment of valuation method and risk strategy is critical
• There is no substitute for professional appraisal
• Continuous review process of keep/hold strategy
The following resources are provided by the presenters as information only. The list does not constitute an endorsement of any resources or any particular vendor of services.
• Historical Building Construction: Design, Materials, and Technology (Second Edition), Donald Friedman
• Feasibility Assessment Manual for Reusing Historic Buildings, Donovan D. Rypkema
• ADA Technical Assistance [https://www.ada.gov/taman2.html#1_historic_buildings](https://www.ada.gov/taman2.html#1_historic_buildings)
• National Register of Historic Places – [https://www.nps.gov/nr/shpoinventories.htm](https://www.nps.gov/nr/shpoinventories.htm)
American Society of Appraisers (ASA) http://www.appraisers.org/
The Appraisers Association of America (AAA) – www.appraisersassoc.org
International Society of Appraisers (ISA) www.isa-appraisers.org
Connecting Collections Care (Online community) – http://www.connectingtocollections.org/archives/
Mark T. Hessel, Vice President, HCA Asset Management, LLC
RE-ORG (UNESCO & ICCROM partnership) References for storage RM http://re-org.info/en/items/item/757-download-the-methodology