

Navigating Legal Landmines
in Museums and Archives:

Collections

AASLH, Sept. 18, 2014

aka

“Donations, not Depositions”

1. Prevention

2. Repair



POLLS

- How many of you currently work or have worked in Collections?
 - Current
 - Previous
 - Supervise collections staff
 - None of the above

POLLS

- Which of the following applies to your museum/archive/institution?
(mark all that apply)
 - We know everything that we have in our collection
 - We know where everything in our collection is
 - We have legal (documented/written) title to everything in our collection
 - None of the above

DISCLAIMERS

- I am not a lawyer
- I will not be talking about “living” collections
- I will not be talking about stolen items
- I will not be talking about NAGPRA
- I will not be talking about stolen antiquities, European art that changed hands between 1933 and 1945, etc.



So „sahen“ sie die Welt,
Das waren die „Meisterwerke“

die „Meister“ der von Juden
himmel gerühmten Verfalls-
die mit den Steuergroschen
bezahlt wurden !!!



Gedachte die Meisterwerke von
Dürer, prägten die Sehenswürdigkeit
des Museums, weil es Kunst der Kunst
war, nicht weil es Kunst war. Ein Kunst-
werk ist das, was man nicht
mit „Kunst“ bezeichnen kann.

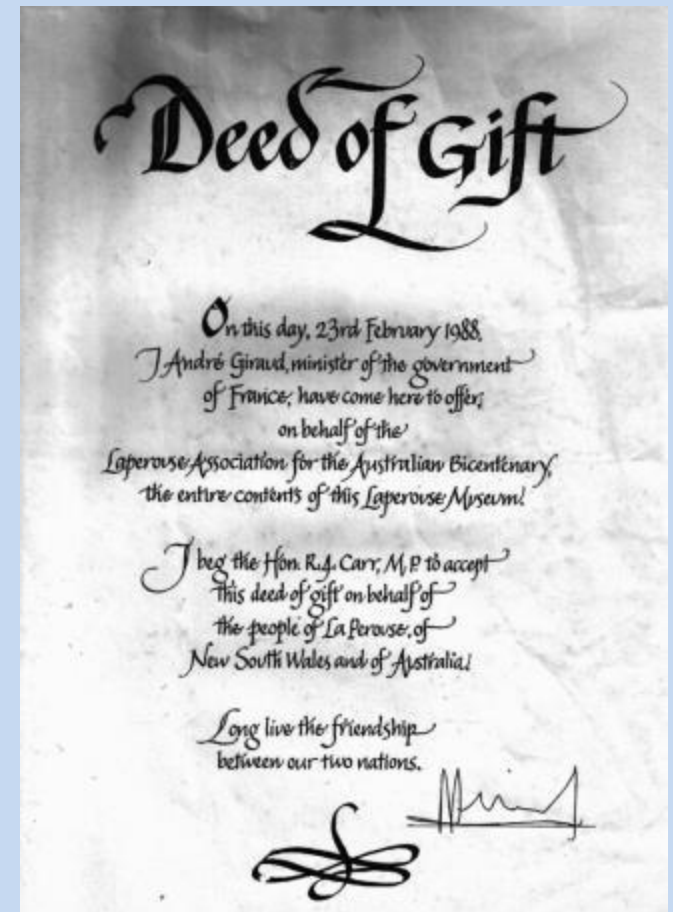


POLL:

- POLL: Does your museum use the following documents/procedures? (mark all that apply)
 1. Deed of gift
 2. Loan agreement
 3. Register/ledger/accession log/inventory list
 4. Tracking (numbers/images)

“Preventatives”

1. Deed of gift
2. Loan agreements
3. Accessioning
4. Tracking



Deed of gift/Title

- No restrictions
- Possession
- Receipt/Bill of Sale
- Acknowledgements
- Authority to receive gift



Loans

- ***Written, signed***
- **Term/Renewal**
- **Purpose**
- **Care**



The screenshot displays the Michigan Legislative Council website. The header features the Michigan State Capitol dome. The left sidebar contains navigation links such as 'NAVIGATE STATUTES', 'MCL Chapter Index', 'Chapter 399', 'Act 24 of 1992', 'Navigate Search Results', 'Legislature', 'Bills', 'Appropriation Bills/Passed', 'Calendars', 'Committees', 'Committee Bill Records', 'Committee Meetings', 'Concurrent Resolutions', 'Initiatives', 'Joint Resolutions', 'Journals', 'Legislators', 'Public Act (Signed Bills)', 'Resolutions', 'Session Schedules', 'Topic Search', and 'Advanced Search'. The main content area is titled 'Act 24 of 1992' and includes links for 'friendly link', 'Printer Friendly', 'bills affecting', and 'index and updates'. A search bar is present with the text 'Search within this Statute for'. The title of the act is 'THE MUSEUM DISPOSITION OF PROPERTY ACT' and the year is 'Act 24 of 1992'. The description reads: 'AN ACT to provide for the disposition of property loaned to museums, archives, and libraries.' The history is listed as 'History: 1992, Act 24, Imd. Eff. Mar. 23, 1992'. The copyright notice is '© 2009 Legislative Council, State of Michigan'. The enacting clause is 'The People of the State of Michigan enact:'. A table with three columns: 'Document', 'Type', and 'Description' lists sections 399.601 through 399.605.

Document	Type	Description
Section 399.601	Section	Short title.
Section 399.602	Section	Definitions.
Section 399.603	Section	Property loaned to museum on or after January 1, 1993; duties.
Section 399.604	Section	Property loaned to museum generally; duties.
Section 399.605	Section	Notice of change in lender or designee's address or ownership.

“If You Loan Something to a Museum, Don’t Wait 30 Years to Ask for its Return”

Accession Number	Date Received	Description	Received From	How Acquired	Remarks	Collection Number
WASOA-1	01 JAN 1985	Collection of 100 abandoned by T-15, located at Vao		Field collection		WASOA 1
WASOA-2	01 JAN 1985	Collection of 100 abandoned by T-15, located at Vao		Gift		WASOA 2
WASOA-3	23 JUL 1985	Collection of 100 abandoned by T-15, located at Vao		Gift		WASOA 3
WASOA-4	11 FEB 1986	Friend photograph by David Brown, titled "Big Sea Coast"		Gift		WASOA 4
WASOA-5	21 DEC 1985	Friend photograph by David Brown, titled "Big Sea Coast"		Gift		WASOA 5
WASOA-6	1 FEB 1987	Friend photograph by David Brown, titled "Big Sea Coast"		Gift		WASOA 6
WASOA-7	1 DEC 1987	Friend photograph by David Brown, titled "Big Sea Coast"		Gift		WASOA 7
WASOA-8	1 DEC 1987	Friend photograph by David Brown, titled "Big Sea Coast"		Gift		WASOA 8
WASOA-9	21 JAN 1988	Friend photograph by David Brown, titled "Big Sea Coast"		Gift		WASOA 9
WASOA-10	30 DEC 1989	Friend photograph by David Brown, titled "Big Sea Coast"		Gift		WASOA 10
WASOA-00001	31 DEC 1989	Friend photograph by David Brown, titled "Big Sea Coast"		Gift		WASOA 00001
WASOA-00012		Friend photograph by David Brown, titled "Big Sea Coast"		Gift		WASOA 00012

[illegible]

Accession Number	Date Received	Description		Received From	How Acquired	Remarks	Catalogue Number

Tracking

- THE RULE: “Any registration system used by a museum should be readily understandable to any intelligent but uninformed layman using the registration system itself, without any human assistance.”



Tracking

- THE OTHER RULE:
“Always make a record of what you have done.”
(so staff 50 years from now won’t curse you
as you curse staff from 50 years ago)



How Some Other Things can Help

Artifact Donation Form

The mission of the Colorado Springs Pioneers Museum is to collect, preserve, research, and interpret the history and culture of the Pikes Peak Region. Because of our mission, artifacts and archival materials need to help document the history of Colorado Springs and the surrounding area. Objects and archival materials should have been made or used in the area and have some clear and specific aspect of the Pikes Peak Region History.

Please do not bring the object(s) to the Museum without an appointment with the appropriate staff member. Front desk staff cannot accept donations.

Please Note: All fields are required.

YOUR CONTACT INFORMATION

Name:

Email Address:

Daytime Phone:

Address:

City: State: Zip:

OR Province:

Country:

Description of Artifacts?

Name of the original and subsequent owner

Date of original owner's birth/death

Biography of original owner or user -- Relationship to donor

Are you the legal owner of the object(s)?

Was the object(s) purchased new, used, inherited, or found? Where (if known)?

Have there been any other owners or users of the object(s)?

How Some Other Things can Help

Receipt No. 1

Temporary Custody Receipt

PastPerfect Museum, 312 Main Street, Pastville, PA 10234 425/555-1256

This is to acknowledge receipt of the items listed below by the PastPerfect Museum from:

Name:	<u>Packwood, Neil Jr</u>	Date:	<u>01/04/2004</u>
Address:	<u>12343 Elmwood Drive</u>		
City:	<u>Perfectedown</u>	State:	<u>PA</u>
		Zip:	<u>19822</u>
Work#:	<u>610/555-6789 Ext.</u>	Home#:	<u>610/555-2356</u>
		Fax#:	<u>610/555-6788</u>
		Cell#:	<u>610/555-8473</u>
Website:	<u></u>		
	Email:	<u>paker@yahoo.com</u>	

The items listed below are left in the custody of the PastPerfect Museum to be considered as:

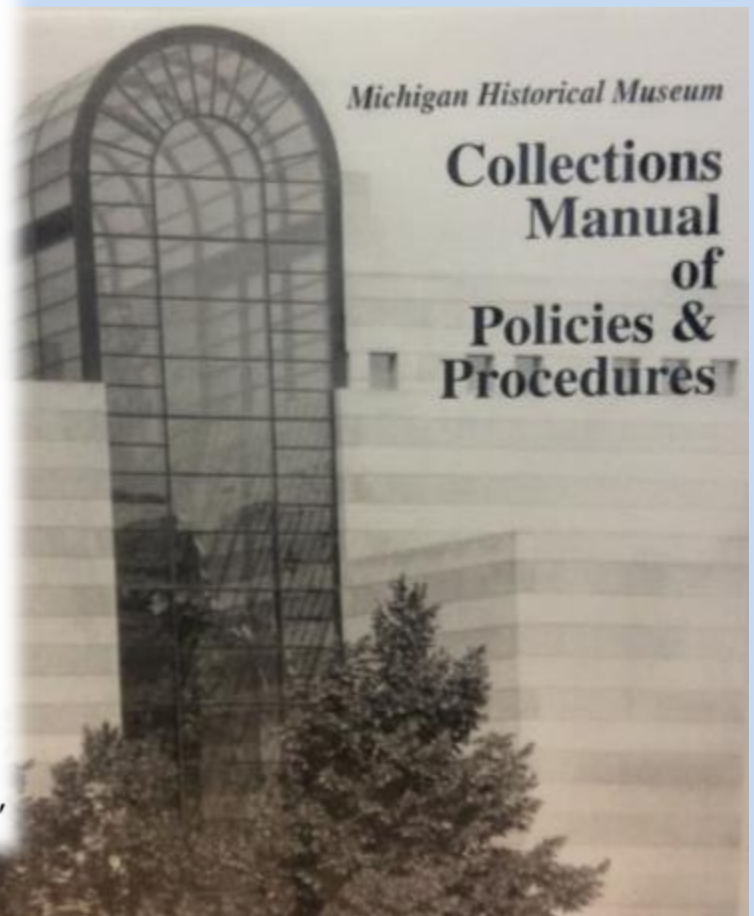
- ☐ An unconditional donation. The Museum reserves the right to keep, lend, or otherwise dispose of the donated material.
- ☐ To be considered for acquisition.
- ☐ For identification. Does not constitute an authentication; will not include appraisals. Museum reserves the right to photograph.
- ☐ For other. Please specify

Disposition if not accepted for accession:

How Some Other Things can Help



"It may indeed be a pivotally significant example of early 18th century Flemish art, but as head of merchandising I have to ask 'What would it look like on a fridge magnet?'"



How Some Other Things can Help

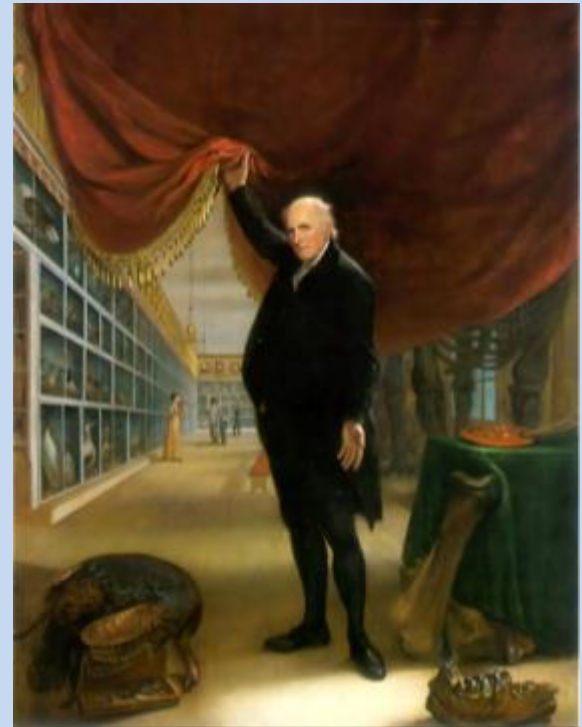


Show Me The Law!

- Almost none of these “preventative” measures is specified in law except for state-affiliated institutions

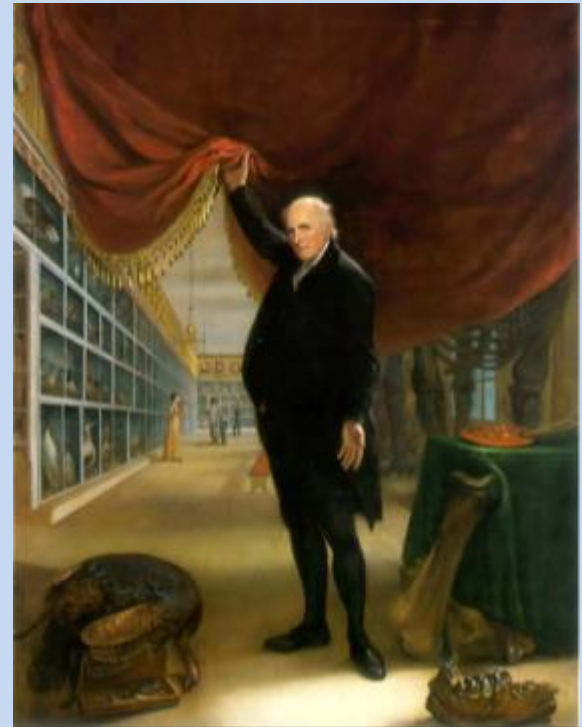
POLLS

- How many of you have:
 - “old loans”? (“permanent,” “indefinite,” long expired)
 - “Found in Collection”
 - “Drop-offs”
 - All of the above
 - None of the above



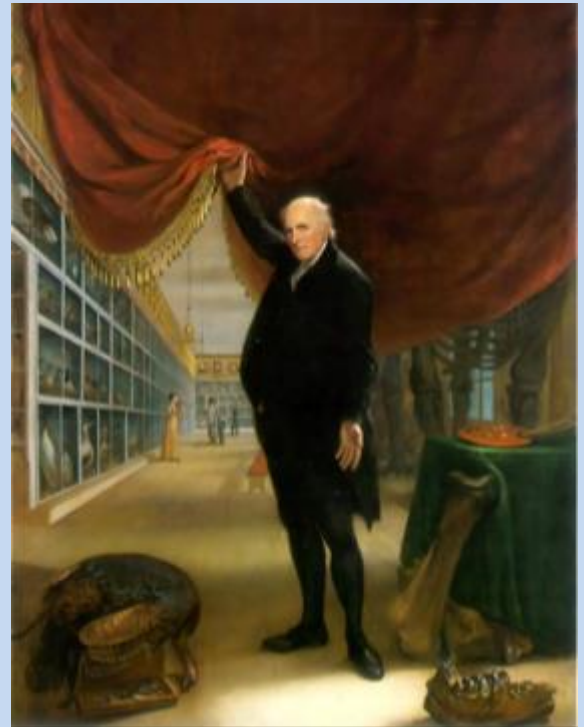
POLLS

- How many of you are from states that have a museum property act? (or Abandoned cultural property act)
 - Yes
 - No
 - Don't know



POLLS

- How many of you have actively used your state's museum property act to obtain title to artifacts?
 - Yes
 - No
 - I don't know



Who is
this?
Did he
work at
your
place?



Museum Property Act

Abandoned and Loaned Cultural Property

Abandoned Cultural Property Act

Acquisition of abandoned property held by institution

An Act Concerning Museum Property

An Act Relating to Property Loaned to Museums

Disposition of Museum Property

Donations and loans; disposition of abandoned loans

Georgia Museum Property

Heritage Preservation Act

Historical Museums

Loans to Museums

Loans to Museums for Indefinite or Long Terms

Museum Disposition of Property Act

Museum Loan Act

Museum or Historical Society Unclaimed Property

Museum Unclaimed Loan Act

Museum Unclaimed Property Act

Property Deposited with Museums

Property Held by Museums

Property in Possession of Museum or Archives

Property Loaned to Museums

Property of the State Museum

Unclaimed Property Held by Museums or Historical Societies

Unclaimed Property in Museums

Museum Property Act

Just the Facts:

1. Where?
2. Who?
3. What?
4. When?
5. How?



**THE FACTS
MA'AM -
JUST THE FACTS**

Museum Property Act

Just the Facts:

Where?



Museum Property Act

Just the Facts:

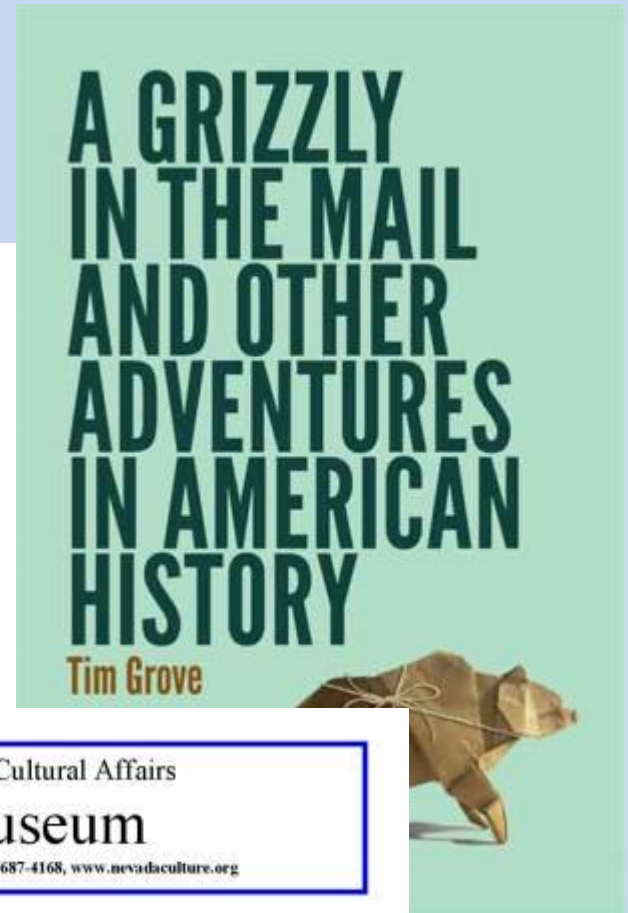
Who?



Museum Property Act

Just the Facts:

What?



	Nevada Department of Tourism and Cultural Affairs
	Nevada State Museum
600 N. Carson St., Carson City, NV, 89701-4004, (p) 775/687-4810, (f) 775/687-4168, www.nevadaculture.org	

Incoming Loan Agreement

Loan # _____

Lender

Name of Organization or Individual _____

Street _____ City _____ State _____ Zip _____

Contact Name _____

Telephone _____ Fax _____ Email _____

Museum Property Act

Just the Facts:

When?



Museum Property Act

Just the Facts:



U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com.

OFFICIAL USE

	Postage	
Certified Fee		Postmark Here
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: Shady Collection Agency, Inc.
Street, Apt. No., or PO Box No.: PO Box 12345
City, State, ZIP+4: Scum Pit, NJ 12345

PS Form 3800, August 2006 See Reverse for Instructions



Handwritten: *Handwritten*
Handwritten
Handwritten

U.S. POSTAGE
PAID
SAN ANTONIO, TX
78204
MAY 04, 07
PM 00:01
\$4.64
80022319-20

78163

RETURN RECEIPT REQUESTED

Richard A. Wheeler

Bulverde,

78163+1878029902702

NIXIE 782 CC 1 10 05/12/07
RETURN TO SENDER
REFUSED
UNABLE TO FORWARD
BC: 70209270219 *2110-11917-04-37

How?

Museum Property Act

Just the Facts:

How?

Public Notice

Notice is hereby given to the public that the flat and shares more particularly described in the schedule hereunder written is being transferred in name of 1) Mr. Ramkeshore Roy and 2) Mr. Snyanikushore Roy legal heirs of Mr. Subash Roy. All PERSONS having any claim in respect thereof by way of sale, exchange, gift, mortgage, charge, trust, inheritance, possession, lease, loan or otherwise howsoever are requested to inform the same in writing to the undersigned having their office at 1/28, Mala Shopping Centre Near Shivaram High School, Borivali E, Mumbai - 63, within 14 days from the date hereof failing which, the claim or claims if any, of such person or persons will be considered to have been waived and/or abandoned and the transfer shall be completed.

SCHEDULE ABOVE REFERRED TO

Flat No. - 302 admeasuring 40 (Forty) square metres, equivalent to 430 square feet as per the Agreement of Sale dated 21st October 1961 at B-55, Rajaram, B-wing, Orchid Towers, Sirasurji Marg, Shroff Bazaar Road, Borivali (East), Mumbai - 400063 and five fully paid up shares bearing distinctive serial numbers from s.no 196 to s.no 200 both inclusive of the face value of Rs 50/- (rupees fifty each) i.e. Rs.250/- (rupees two hundred fifty only) saved vide share certificate no. 40, dated 31st december, 1985, by Rajaram Co-operative Housing society situated on property bearing CTS No. 1243/56/35 of Dindoshi Division of Borivali Taluka

For Ashok Kumar Dubey
Sd/-

(Ashok Kumar Dubey) Proprietor

Dated this 31st day of July 2013.

Place: MUMBAI


Museum Property Act

Just the Facts:

MUSEUM OF HISTORY Office of the Registrar • 0000 Street, Anywhere, ST 00000 Telephone (000) 000-0000 • Fax (000) 000-0000 • E-mail: registrar@moh.org				
<i>Include photo of object with Affidavit</i>				
AFFIDAVIT				
OBJECT: _____				
Material/Media: _____ ID Number (if any): _____				
DIMENSIONS: H. _____ W. _____ L. _____ DIA. _____ Weight _____				
The information supplied in the body of the affidavit should be based on the personal knowledge of the witness(es) signing the declaration and should include, as thoroughly and to the best of the witness'(es)' knowledge:				
<ul style="list-style-type: none">• The witness's connection to the museum<ul style="list-style-type: none">• When the object was seen in the museum for the first time by the witness(es)• Where the object was seen for the first time by the witness(es)• The circumstances under which the object was seen				
I declare under penalty of perjury of the law that the abovementioned information is true and correct				
_____ Name and Address of witness				
_____ Signature and Date				

How?

Resources

Found in Collections 

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[Contact](#)

Some museum objects contain materials derived from endangered or threatened species. For information on federal laws protecting wildlife, and the possession, sale, and movement of objects containing their materials, contact the U.S. Fish and Wildlife Service (<http://www.fws.gov/>), (800) or (703) 358-2104. Supplied below are several of the acts protecting wildlife. For a complete list, see: <http://laws.fws.gov/lawsdigest/indx.html>.

African Elephant Conservation Act

[16 USC 4201-4245]

<http://laws.fws.gov/lawsdigest/elephnt.html>

Bald Eagle Protection Act

[16 USC 668]

<http://laws.fws.gov/lawsdigest/baldegl.html>

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

<http://laws.fws.gov/lawsdigest/treaty.html#CITES>

Endangered Species Act

[16 USC 1531 et seq.]

<http://laws.fws.gov/lawsdigest/esact.html>

The Lacey Act

[18 USC 42; 16 U.S.C. 3371-3378]

<http://www.animallaw.info/topics/spuslaceyact.htm>

Marine Mammal Protection Act

[16 USC 1361 et seq.]

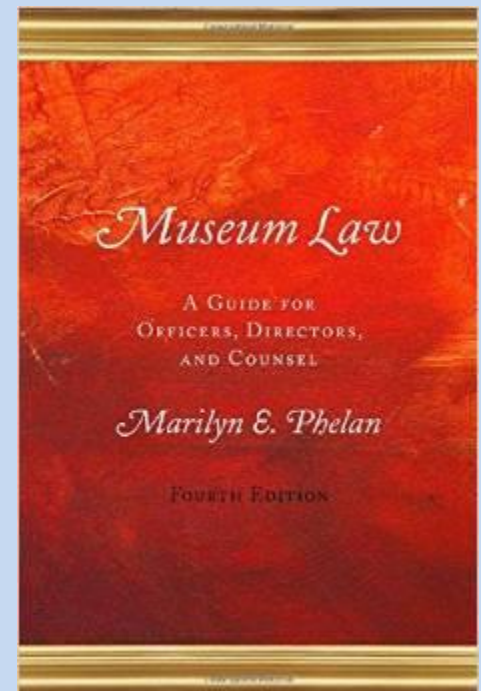
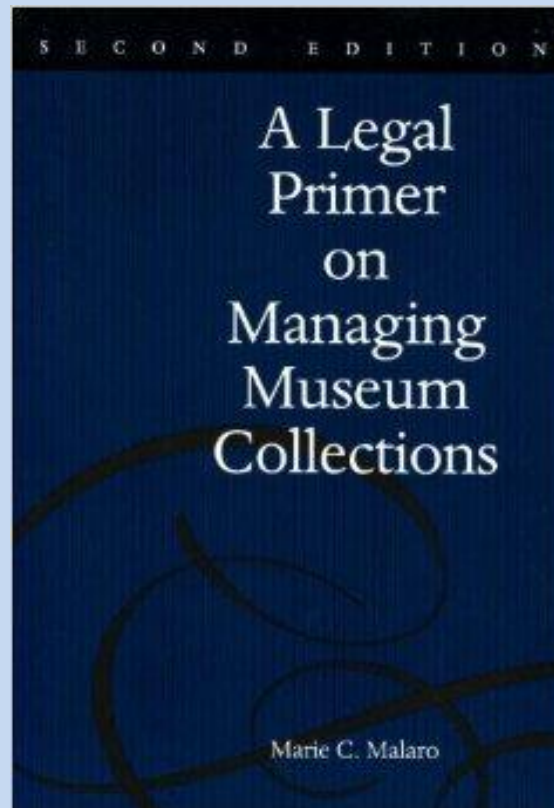
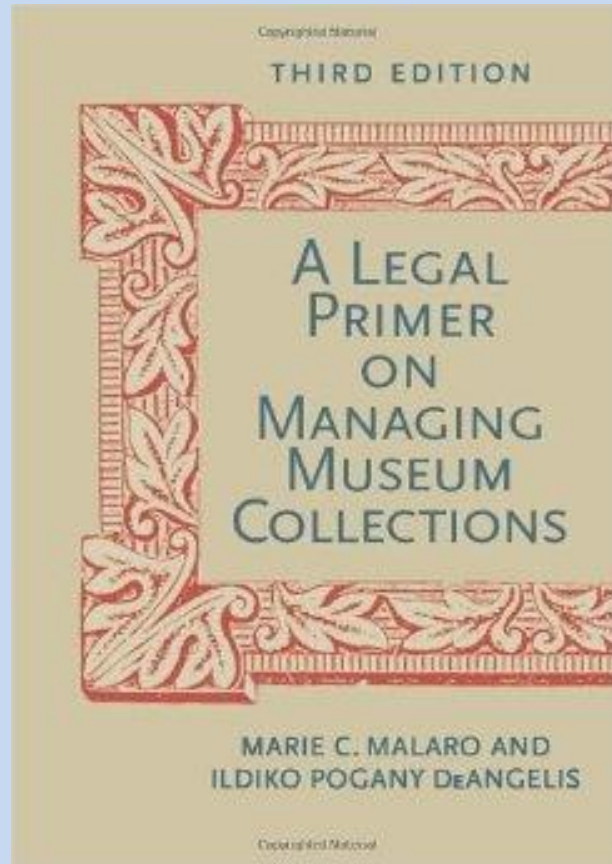
<http://laws.fws.gov/lawsdigest/marmam.html>

Migratory Bird Treaty Act

[16 USC 703-712]

<http://laws.fws.gov/lawsdigest/migtrea.html>

Resources



Linda Eikmeier Endersby
Museum Director,
Michigan Historical Center

EndersbyL@michigan.gov

www.michigan.gov/museum

