

# The Arts

The New York Times

THURSDAY, SEPTEMBER 21, 2000

## Artists Say Museum's Works Are Really Theirs

By NINA SIEGAL

In the early 1980's, when the art dealer Sidney Janis was promoting the work of young graffiti artists, Michael Tracy, an underground painter from the South Bronx, gave the Janis Gallery several pieces to sell on his behalf, Mr. Tracy recalled. He said he considered one of the pieces, a six-foot metal subway door taken off a train and spray painted with his graffiti tag, "Tracy 168," one of his best works.

But after he left the piece with the gallery, he said, it disappeared.

He said he did not see it again until last month, when he discovered a photograph of it on the Brooklyn Museum of Art's Web site, [www.brooklynart.org](http://www.brooklynart.org), advertising "Hip-Hop Nation: Roots, Rhymes and Rage," an exhibition that opens tomorrow.

The piece, "Subway Door," is one of 47 works by graffiti artists donated to the museum in June 1999 when heirs of Janis, who died in 1989, closed the gallery on West 57th Street in Manhattan and cleared out bins of work that had been warehoused there for years. Five of those works, including "Subway Door" and a painting on canvas by Mr. Tracy, will be included in the museum show, explores 25 years of hip-hop culture.

But two graffiti artists whose works were given to the museum, Mr. Tracy and Anthony Clark, as well as a dealer who has handled graffiti work since the 1970's, Hugo Martinez, say that at least a dozen of the pieces were never the property of the Janis estate, and that it had no right to give them away.

"These paintings were given to the Janises on consignment," Mr. Martinez said. "They were never sold and never returned."

Mr. Martinez said he first saw the donated collection in early July, when Jeffrey Deitch, a gallery owner who was conducting an appraisal of the work on behalf of the Janis estate, asked him to evaluate the works. But Mr. Martinez said he became suspicious about the provenance of the work, because he knew that several artists had said they lost work they had left with the Janis Gallery over the years.

Matthew S. Dontzin, a lawyer for the Janis estate, said that the donated work had been stored at the gallery for at least 15 years, and that for at least a decade no one had made any attempt to retrieve any of the pieces.

When the estate began sorting through the materials last year, he added, its representatives made several attempts to contact artists. Of those they were able to locate, only two responded, he said. One asked for the return of a single piece and agreed to donate the rest to the museum, he said. He added that a second artist asked to be paid for the work, but that Sidney Janis's sons, Carroll and Conrad, did not want to purchase them, and the artist agreed to donate them instead.

The gallery believed that the rest of the



Steve Hart for The New York Times

Michael Tracy with the subway door he covered with graffiti. He says it belongs to him, not the Brooklyn Museum of Art.

work had been abandoned, Mr. Dontzin said. "Had the artists contacted them about the consigned work, the gallery would have gladly returned it to them," he said.

He said that if Mr. Martinez or the other artists contacted the estate about the work, it would consider their claims. But Mr. Tracy said he had tried to retrieve his work from the Janises, and had called the gallery at least a dozen times over the last 15 years without success.

"They kept saying they didn't have them," he said. "They said, 'We've looked high and low, but they're not here.' They said maybe they were in the warehouse, and they couldn't find them. They said they gave them to other artists to give to me. They always had an excuse. And now they've donated them to the museum without my consent."

Mr. Clark, who goes by the tag "A One," said he was affiliated with the Janis Gallery between 1983 and 1986. At the time, he said, he sold three of his paintings, which he describes as "aerosol expressionism," to Mr. Janis, and gave the gallery a number of other works to sell on commission. He said that he was in regular contact with the

Janises until 1995, but that he was never informed of what had happened to any of his paintings.

"Every few months each artist used to leave a small body of work with them to sell, but the ones that didn't sell we were supposed to get back," said Mr. Clark, who now lives in Paris. "But we never got some of them back. Obviously they've been hoarding painting from me for like 15 years."

Sally Williams, a spokeswoman for the Brooklyn Museum, referred questions about the history of the art to the Janis estate and said that the museum had no reason to contact any of the artists about the work because it had been received from a reputable source.

Mr. Deitch said he could not comment on the provenance of the work, and added that the issue of compensation notwithstanding, "the really important thing is that a great group of these works will be in the Brooklyn Museum." He continued, "It's a superb collection, and I think these are among the great artists of their time, and they haven't received their due yet."

Although he declined to disclose the appraised value of the collection as a whole, he said a typical piece "in this category" would sell for about \$5,000.

Mr. Dontzin, the estate's lawyer, said the Janises hoped that the charitable donation of the 47 works would be a boon for the artists and the city. "From the gallery's perspective this was a win-win," he said. "A body of work was donated that were not saleable on an individual basis, but that would have been destroyed otherwise."

Mr. Tracy was just 22 when he jumped into a rail yard in 1980 and took the door off an A train — he would not say how — and then hauled it home to paint his tag on one side and the "Loverster" (the opposite of "monster," he explained) on the other. To him it was a quintessential act of artistic appropriation of public property, in keeping with the graffiti philosophy and aesthetic.

He said that taking the door could not be viewed as theft because "the subways belong to the people," and because the train car was about to be retired. "This door was on its way to the scrap yard," said Mr. Tracy, who is now 42 and lives in the Riverdale section of the Bronx. "I utilized the piece before it would have been dumped in the garbage, and now it's actually being appreciated, instead of sitting in a landfill somewhere."

Al O'Leary, a spokesman for the Transit Authority, declined to comment on whether the door was public property or whether the authority might have an interest in reclaiming it.

Mr. Tracy said that because he had turned the door into a new object — an artwork — he saw it as his personal property, which he was eager to retrieve.

"To me it is priceless," he said. "I wanted it back for so many years, when I finally saw it on the Internet, I lit up like a Christmas tree. It's kind of like a kidnapping, and I've finally got my kid back."