

# **LEGAL ISSUES: OLD LOANS & UNKNOWN SOURCES**

DOCUMENTARY HERITAGE & PRESERVATION SERVICES | NEW YORK STATE

ERIN RICHARDSON, PRESENTER

# INTRODUCTION

Poll

What do you already know?

# NEW YORK STATE EDUCATION LAW 233-AA

## Today's plan:

- Disclaimers!
- Review history of the law
- What is the scope of this act? To whom does it apply?
- How is this law helpful?
- Walk-through of the law language.
- How do you implement it at your site?
- How to avoid needing this law
- Examples
- Time for questions!



Not a legal  
professional



## ERIN RICHARDSON IS NOT A LAWYER

This is my interpretation of  
both the intention and letter  
of the law.

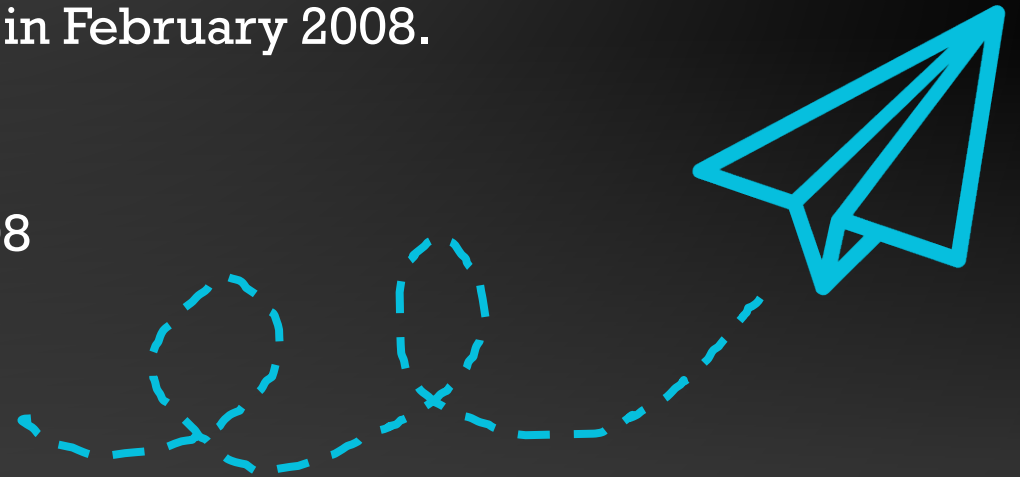
Seek the advice of an  
attorney if you are uncertain  
about how to apply the law



Uncertified  
non-lawyer

# HISTORY OF 233-AA [AKA: MUSEUM PROPERTY]

- Began as Assembly Bill in January 2007 (sponsored by Brodsky)
- The Senate version of the bill was 3953 (sponsored by Maltese)
- Died in the Senate in January 2008, was returned to the assembly
- Passed the Assembly, delivered to senate in February 2008.
- Passed the senate in April 2008
- Signed by Governor Patterson in July 2008



## BEFORE 233-AA, THERE WAS 233-A

- 233-A is essentially the same law, but applies only to the New York State Museum.
- The 233-AA effort was intended to extend the provisions of 233-A to other museums operating in the state.
- Prior to 233-AA, if you were not the State Museum, there was just no procedure or law to follow.



# SCOPE

- What does this law cover?
  - Old loans
  - Undocumented property
  - Doorstep donations



# WHAT MUSEUMS ARE BOUND BY THIS LAW?

- All museums operating in New York State including:
  - Chartered museums
  - Museums incorporated through other means
- Not covered:
  - New York State Museum, Library, and Archives (233-A applies)





## HOW IS THIS LAW HELPFUL?

- Clear title is key to collection management.
- Law provides paths to clear title for categories of property on your site.
- Resolve old loans where the lender has died or stopped responding to renewals
- Take care of doorstep donations within 90 days.
- Resolve “found in collection” (FIC) items.



# EDUCATION LAW 233-AA

POLL!

What kind of property does your museum have?

# WALK THROUGH

See also the original an annotated versions here



## 233-AA OUTLINE

- 1) Definitions of terms
- 2) Acquisition of property via this law must relate to mission
- 3) Make your Collection Management Policy (CMP) available
- 4) Make your CMP available to people planning to bequeath items the museum
- 5) Proceeds derived must be used for acquisition or direct care.
- 6) Outline of “notice by mail” and “notice by publication”

## 233-AA OUTLINE, CONT.

- 7) Claiming abandoned property
- 8) Claiming undocumented property
- 9) Provision regarding superseding laws
- 10) Undocumented property received after January 1 2009
- 11) Provisions regarding emergency conservation and conservation of abandoned or undocumented property
- 12) Lender responsible for notifying your of address or ownership changes

## 233-AA OUTLINE, CONT.

- 13) The museum must keep records of all transactions and process for claiming title via this law
- 14) Loan agreements are still valid



# REVIEW ORDER

- 1) Definitions (part 1)
- 2) Miscellaneous (parts 2, 3, 4, 5, 9, 10, 11, 12, 13 & 14)
- 3) “notice by mail” and “notice by publication” procedures (part 6)
- 4) Unclaimed property (part 7)
- 5) Undocumented property (part 8)

# DEFINITIONS

- These terms are defined in part 1 but we're not talking about them here:
  - Conservation Measures; deaccession; museum; person
- We will discuss:
  - Lender/Loan
  - Property
  - Unclaimed Property
  - Undocumented Property



## DEFINITIONS: LENDER/LOAN

This law assumes that any unclaimed property on your site (received before January 1, 2009) is a loan.

## DEFINITIONS: PROPERTY

any inanimate object, document, organism, or tangible object under a museum's care which has intrinsic historic, artistic, scientific, or cultural

value



## DEFINITIONS: UNCLAIMED PROPERTY

Property that has a known “claimant”  
(you know who left the property with  
you or who owns/owned the property)

## DEFINITIONS: ABANDONED PROPERTY

Property that has no known claimant  
(you have no idea where it came from)

# MISCELLANEOUS PARTS

- 2) Mission-related acquisition
- 3 & 4) Provide potential donors (or people wishing to bequeath items to the collection) with your Collection Management Policy
- 5) Proceeds from sale of anything claimed here should be used for new acquisition or direct care of collections
- 9) If you suspect something is stolen or is nazi loot, do not follow this law, follow appropriate laws related to stolen property.

## MISCELLANEOUS PARTS

- 10) Any property dropped off without documentation (undocumented property) at your site after 1/1/2009 - Keep 90 days, if no one comes forward, claim title.
- 11) If documented property is damaged, you will promptly tell the lender. Do not hesitate to conserve even if lender does not respond.
- 12) The lender is required to tell you if they move, or if ownership changes
- 13) Museum must record and maintain record of all collection transactions; must keep documentation of processes to claim title under this law.
- 14) Its cool to still enter into loan agreements! Please do!

# PART 6: NOTICES BY MAIL AND PUBLICATION

- Notices by mail
  - All correspondence is certified, signature required

7014 0150 0001 8385 8951  
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.  
**CERTIFIED MAIL™**

7014 0150 0001 8385 8951  
7014 0150 0001 8385 8951

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

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$ 0.48	Postmark Here
Certified Fee	3.30	
Return Receipt Fee (Endorsement Required)	2.70 optional	
Restricted Delivery Fee (Endorsement Required)	5.05 optional	
Total Postage & Fees	\$11.53	

Sent To  
Reggie Redbird  
Street, Apt. No.,  
or PO Box No. 123 N Main St  
City, State, ZIP+4  
AnyTown IL 99999

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	A. Signature <b>X</b> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to:  Reggie Redbird 123 State St Normal IL 61761	B. Received by (Printed Name) C. Date of Delivery
2. Article Number (Transfer from service label) # from certified mail slip	D. Is delivery address different from Item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
PS Form 3811, February 2004	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
Domestic Return Receipt	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
102595-02-M-1540	

# PART 6: NOTICES BY MAIL AND PUBLICATION

- Notices by publication
  - Legal notices in your local paper always, and in paper of lender for unclaimed property
  - Go to the NYS comptrollers website for instructions and forms. They're also in the resources here.





## PART 7: UNCLAIMED PROPERTY

- Remember that this is all not-accessioned property (of value) where you know who the owner is (or was) regardless if you have details about their current address or not.
- Reminder also that all unclaimed property is considered a loan per this law.

# PART 7: UNCLAIMED PROPERTY

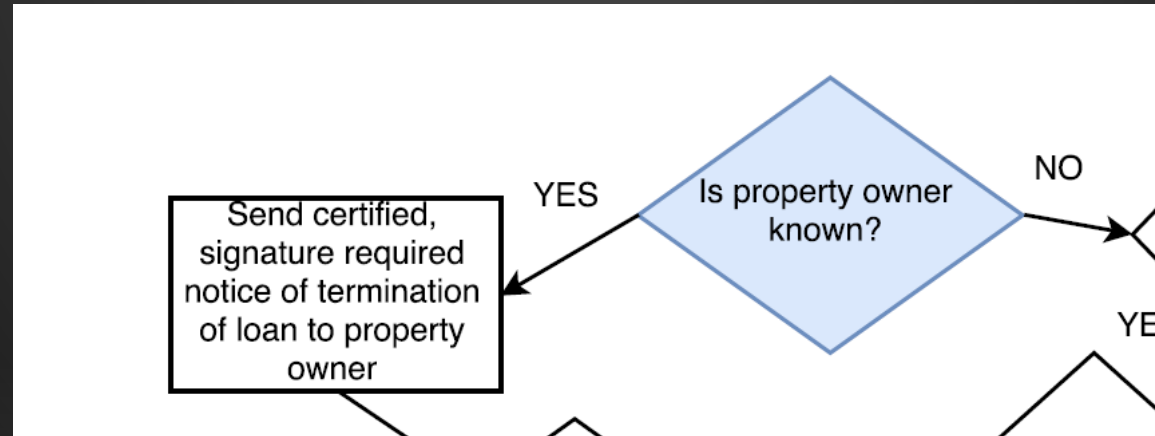
## EXAMPLE:

We work at This County Historical Society and discover a large horse-drawn vehicle in our storage area. It has no number and we have searched high and low for a record. There's no information. But there is a note from a former staff member:

John Doe  
1234 State Highway 99  
Neighborville, NY 12999 (Neighbor County)  
Gave this for carriage exhibit in 1962.



# PART 7: UNCLAIMED PROPERTY



# PART 7: UNCLAIMED PROPERTY

John Doe  
1234 State Highway 99  
Neighborville, NY 12999

## NOTICE OF TERMINATION OF LOAN

Dear Mr. Doe.

“The records of the This County Historical Society (TCHS or “the museum”) indicate that you have or may have property on loan at TCHS. The museum is seeking to determine whether you wish:

- (i) that the museum return the property to you,
- (ii) that the museum obtain all of your to the property, either to take the property into its collection or to dispose of the property, in its sole discretion.

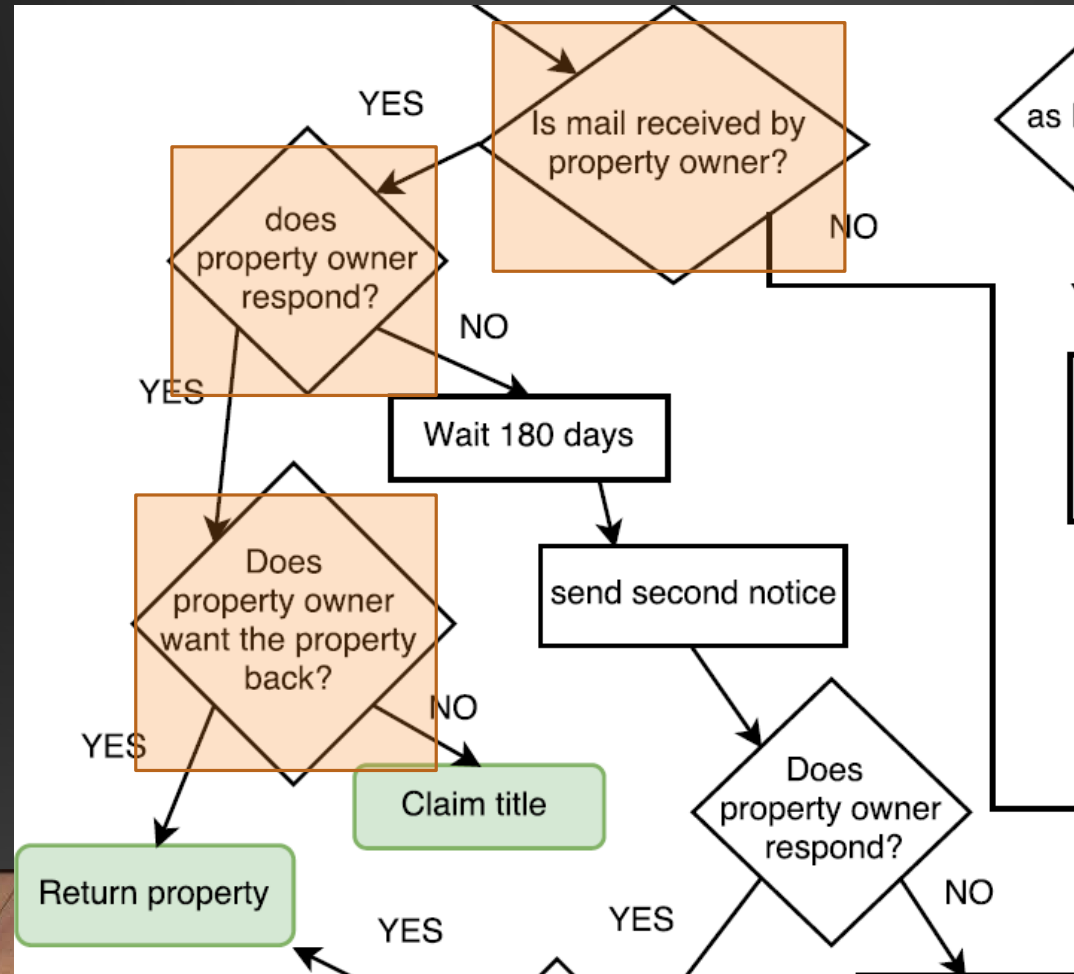
Please contact Jane Doe, Registrar, in writing within one hundred twenty days to advise the museum as to which of the above alternatives you wish to follow.”

Sincerely,

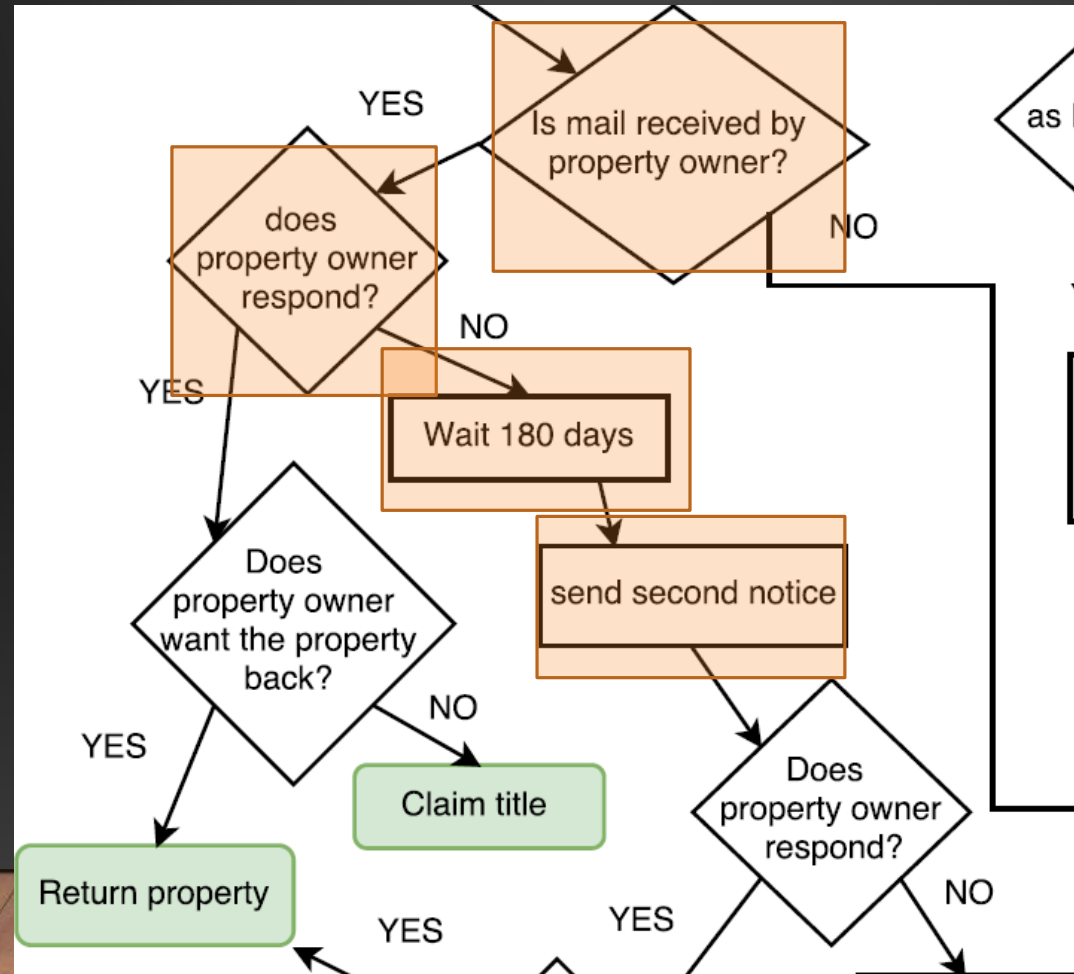
Jane Doe, Registrar  
TCHS  
1234 County Highway 11  
Countytown, NY 12998  
555-555-5555



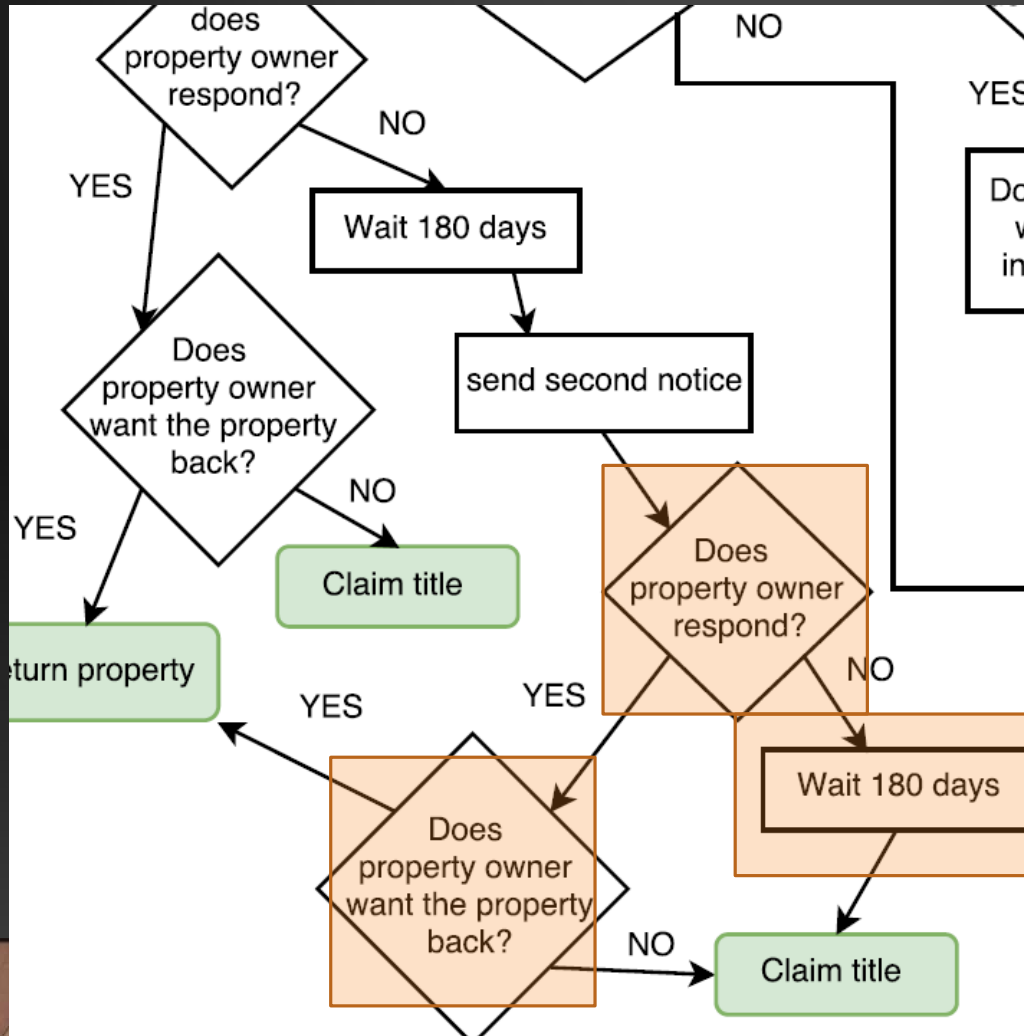
# PART 7: UNCLAIMED PROPERTY



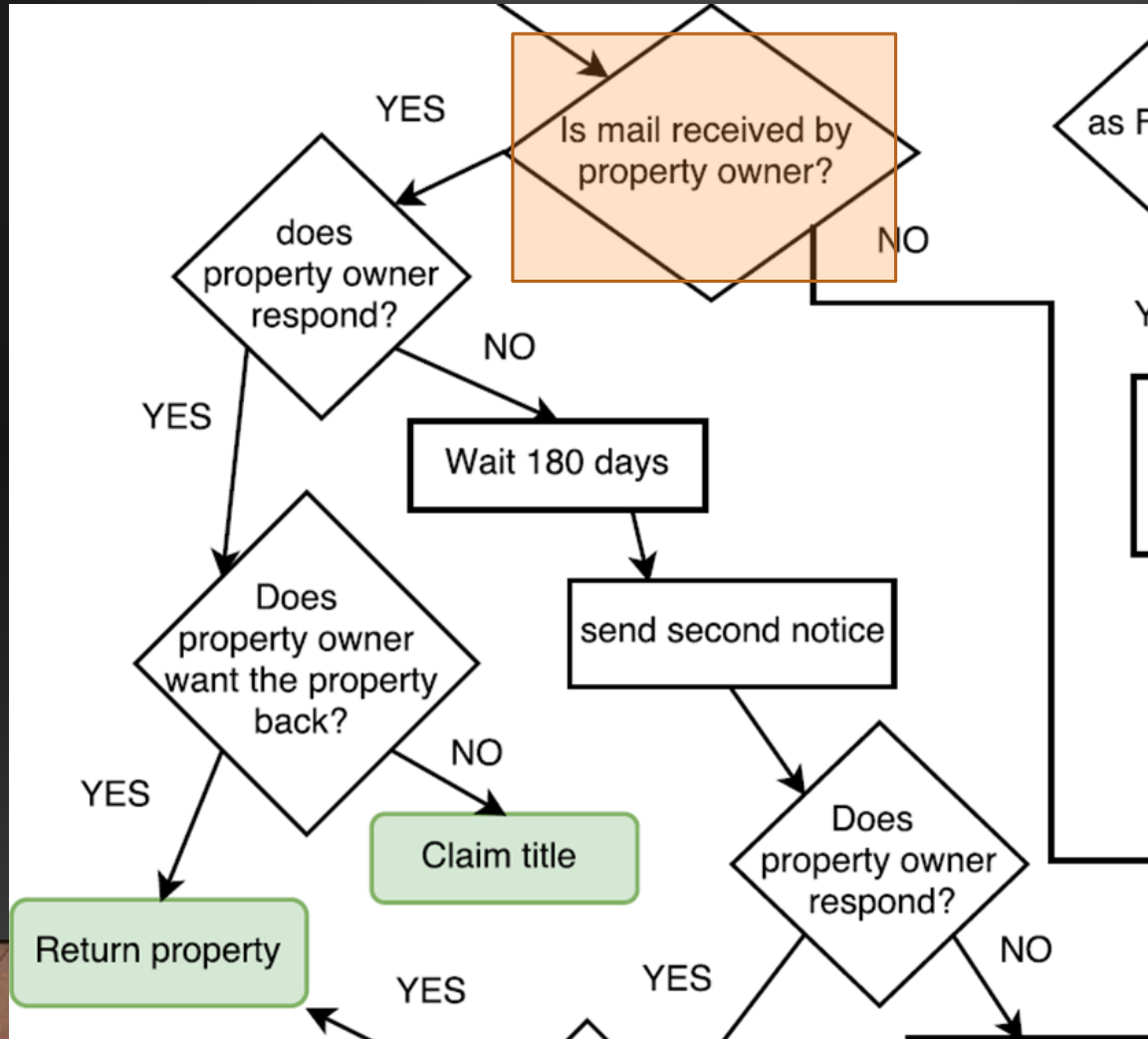
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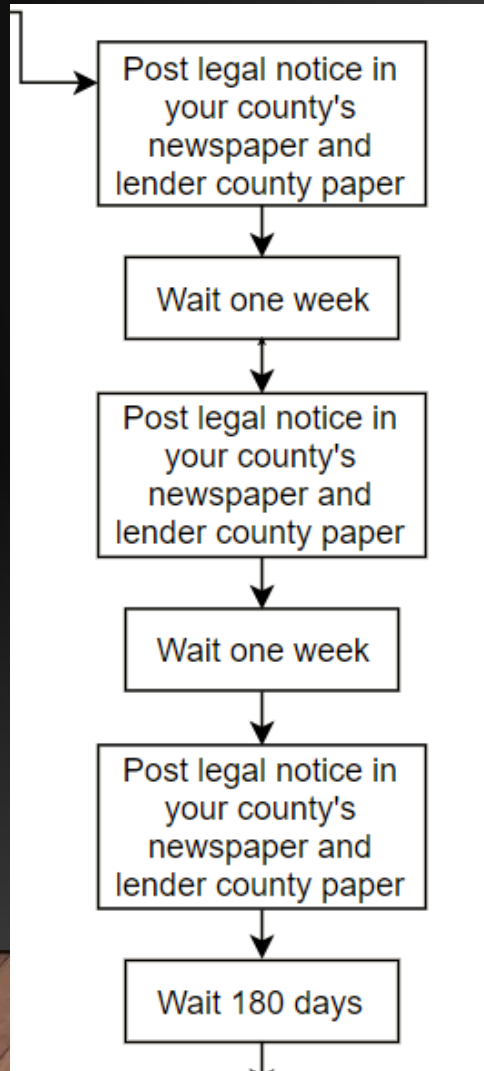


# PART 7: UNCLAIMED PROPERTY

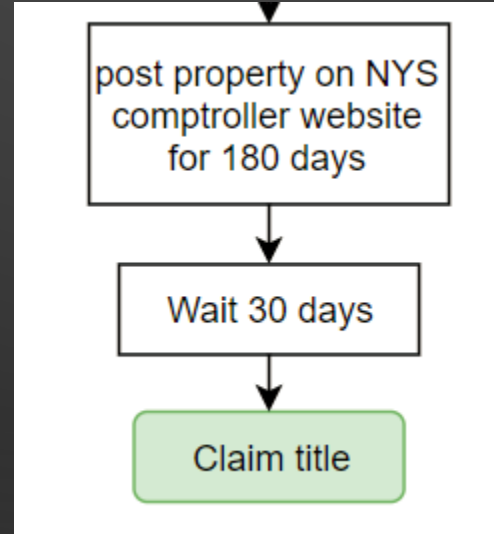




# PART 7: UNCLAIMED PROPERTY



then



Total wait for this portion is 420 days



## PART 7: UNCLAIMED PROPERTY

### Notice of Intent to Acquire Property

This County Historical Society hereby asserts its intent to acquire title to the following property: Carriage ca. 1880. If you claim ownership of this property, you must contact the museum in writing at [TCHS address] and make arrangements to collect the property. If you fail to do so within one hundred eighty days, the museum will commence proceedings to acquire title to the property. If you wish to commence legal proceedings to claim the property, you should consult an attorney.



## PART 8: UNDOCUMENTED PROPERTY

- Remember this is all property (of value) that you have NO ownership information about it includes:
  - Found in Collection
  - “previously accessioned”
  - Donor unknown
  - Stuff just hanging around
- Reminder that all undocumented property is considered a loan per this law.

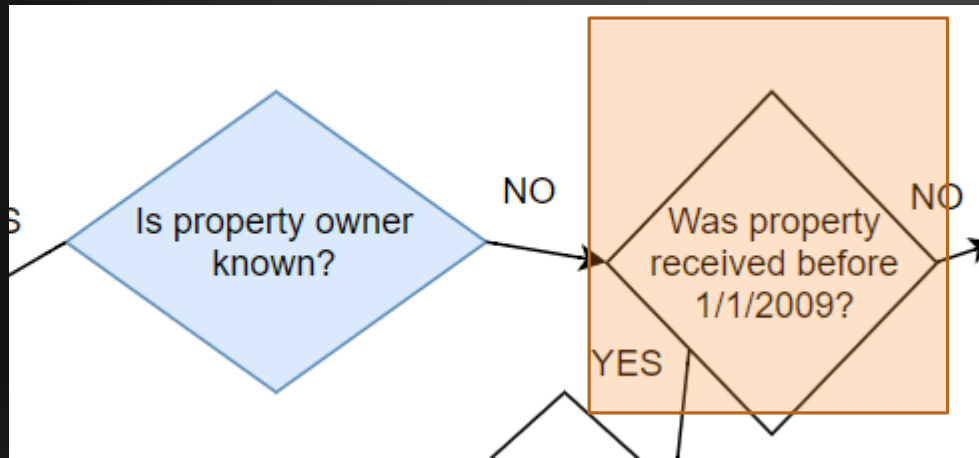
## PART 8: UNDOCUMENTED PROPERTY

### EXAMPLE:

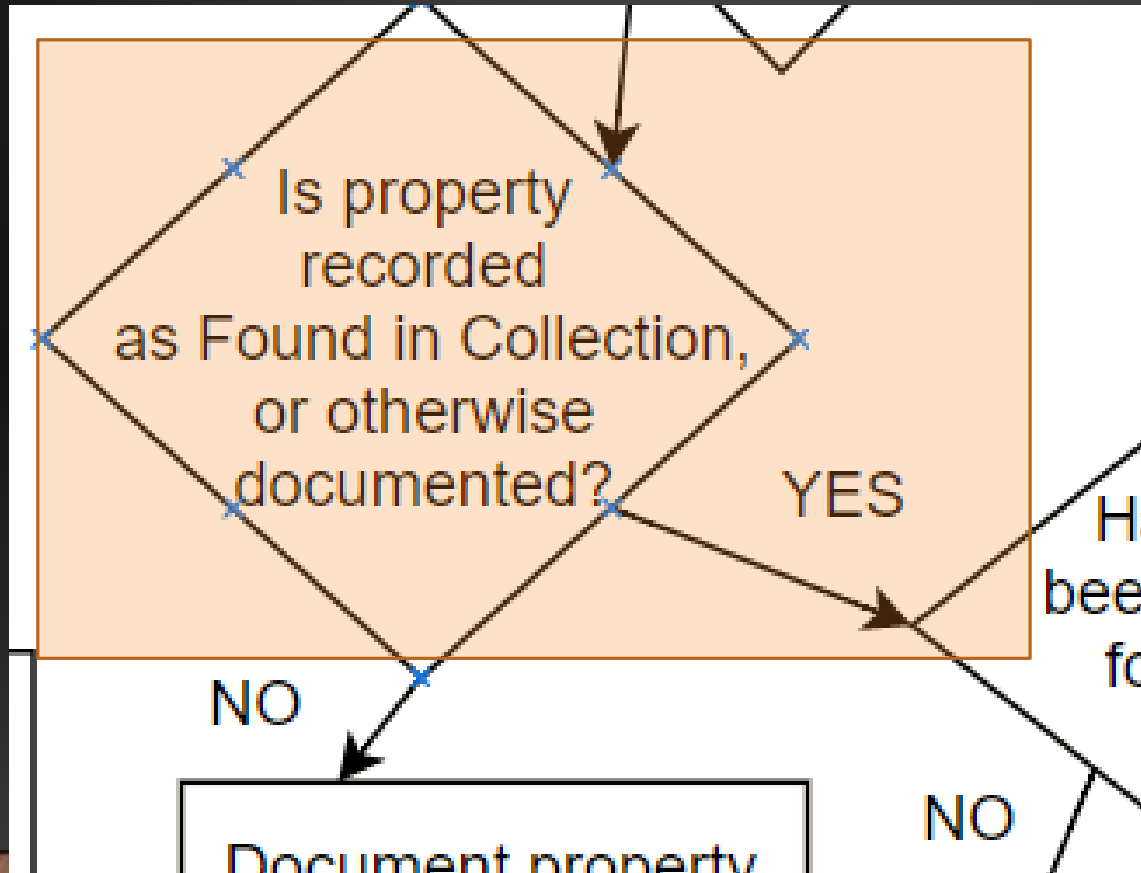
We work at This County Historical Society and discover a painting in our collection that has “found in collection” in the donor field. It was assigned number 1982.78. We know the painting is European, so it does not meet TCHS’s geographic scope. We would like to deaccession it.



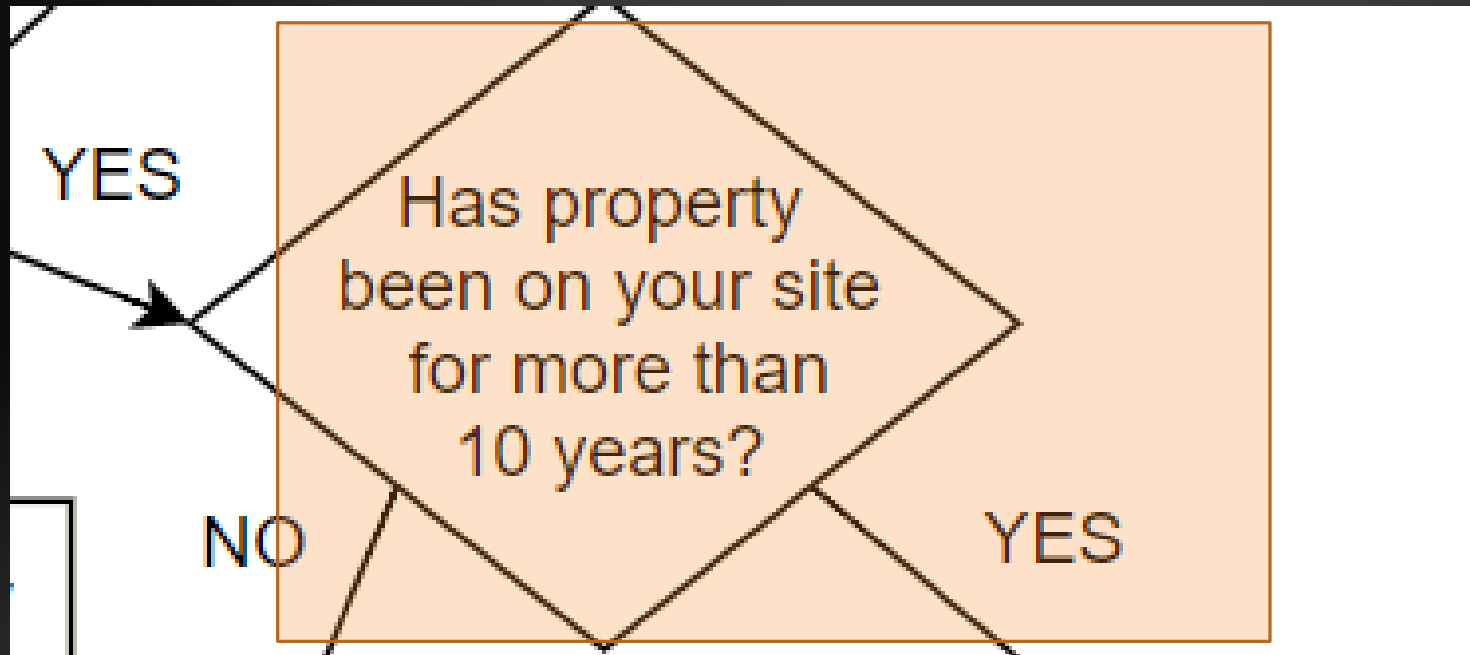
# PART 8: UNDOCUMENTED PROPERTY



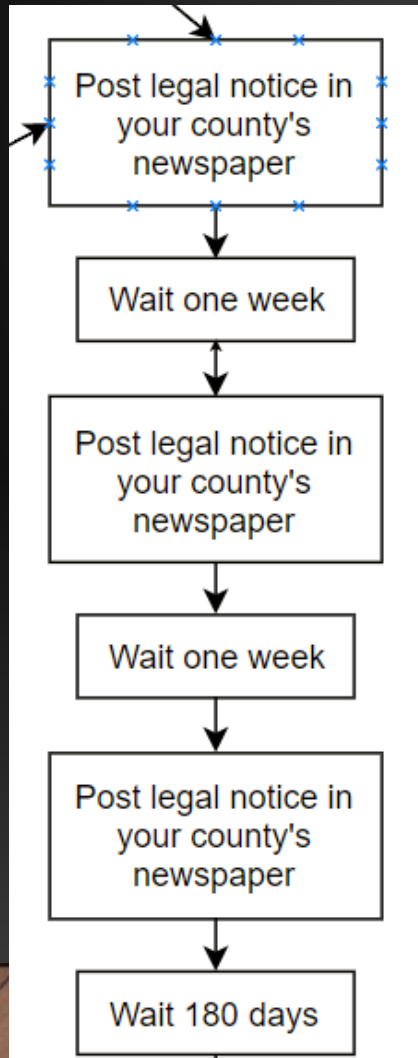
# PART 8: UNDOCUMENTED PROPERTY



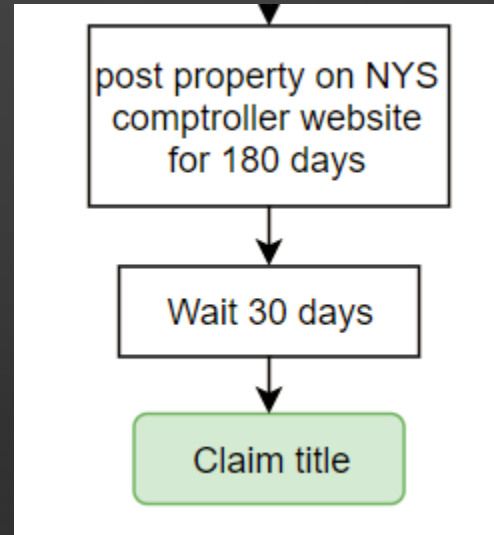
## PART 8: UNDOCUMENTED PROPERTY



# PART 8: UNDOCUMENTED PROPERTY



then



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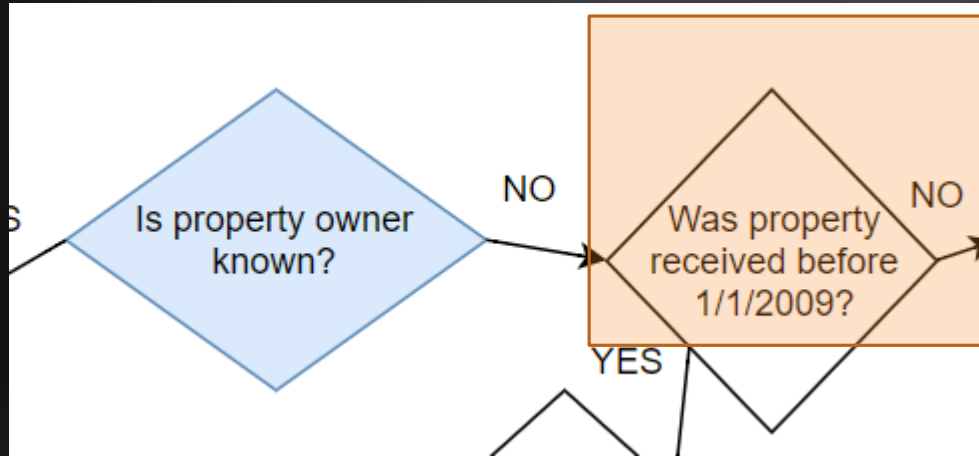
## PART 8: UNDOCUMENTED PROPERTY

### EXAMPLE:

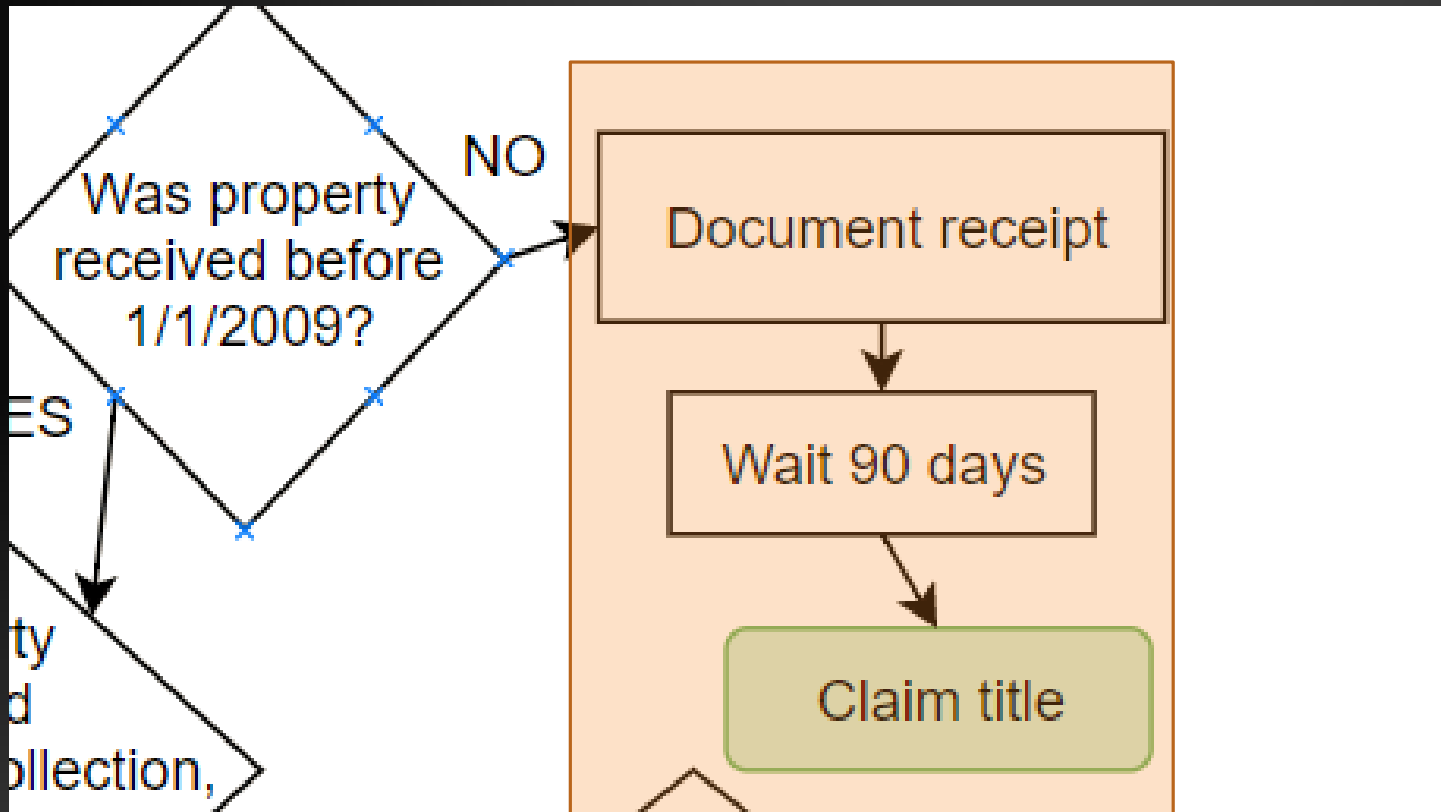
The painting was left at the front desk by someone who refused to give their name, or was mailed to us anonymously. We received the painting in December 2017.



# PART 8: UNDOCUMENTED PROPERTY



# PART 8: UNDOCUMENTED PROPERTY



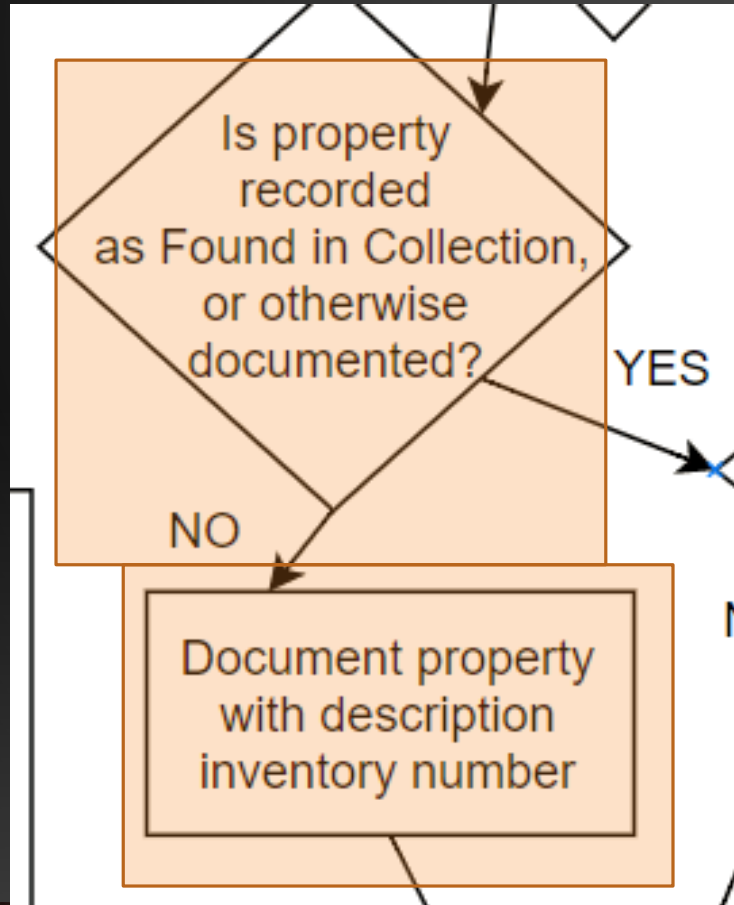
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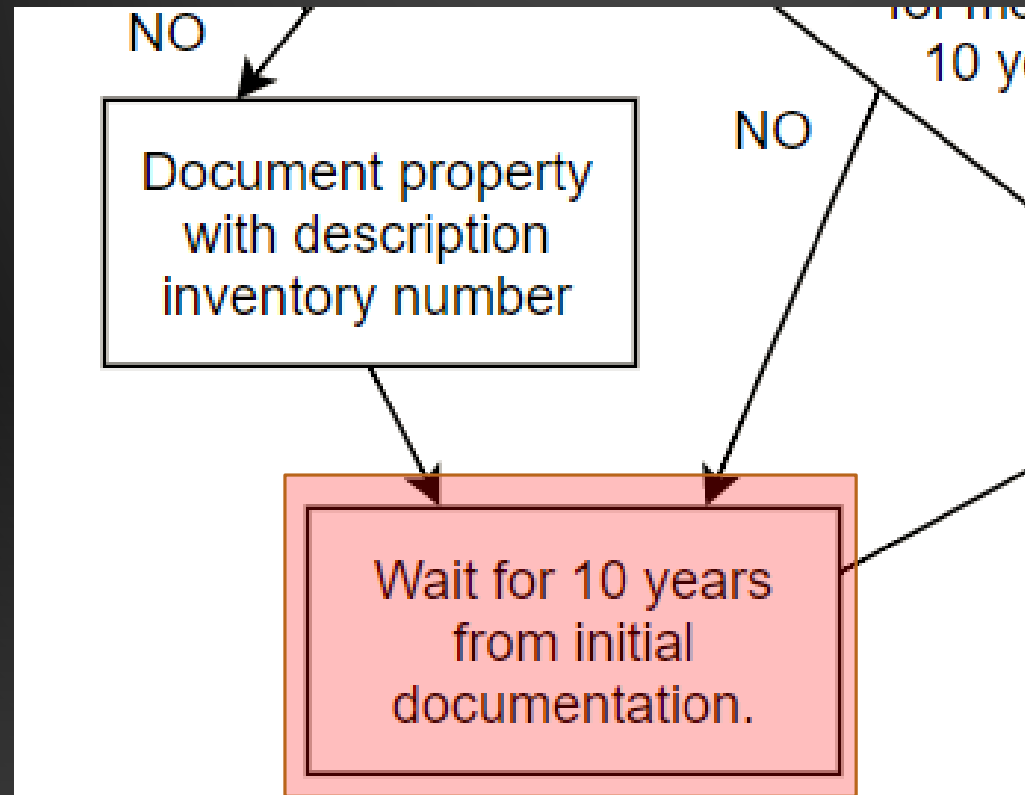
The painting was found in a storage area last week. No one knows anything about it but we know that the painting has been floating around for a long time. Previous staff members, when asked, say “oh – that thing, no one knows about it.”



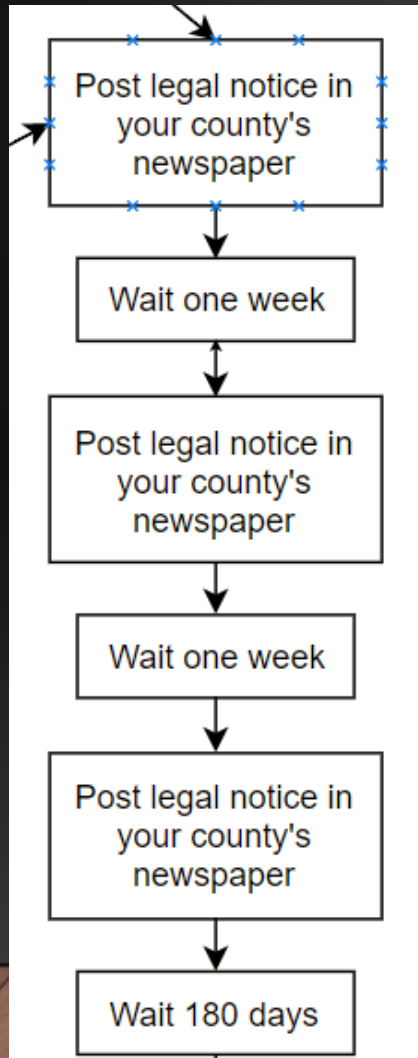
## PART 8: UNDOCUMENTED PROPERTY



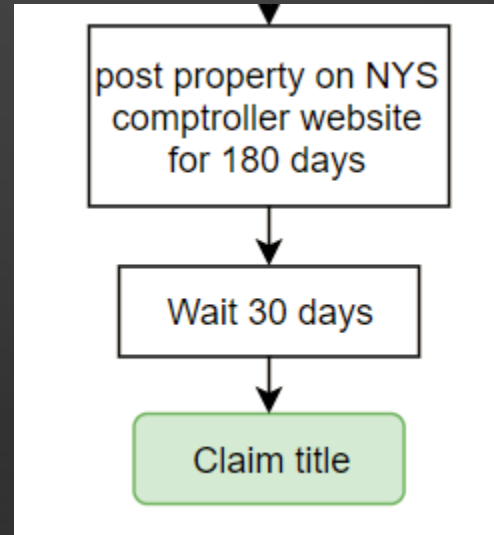
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## PART 8: UNDOCUMENTED PROPERTY



then



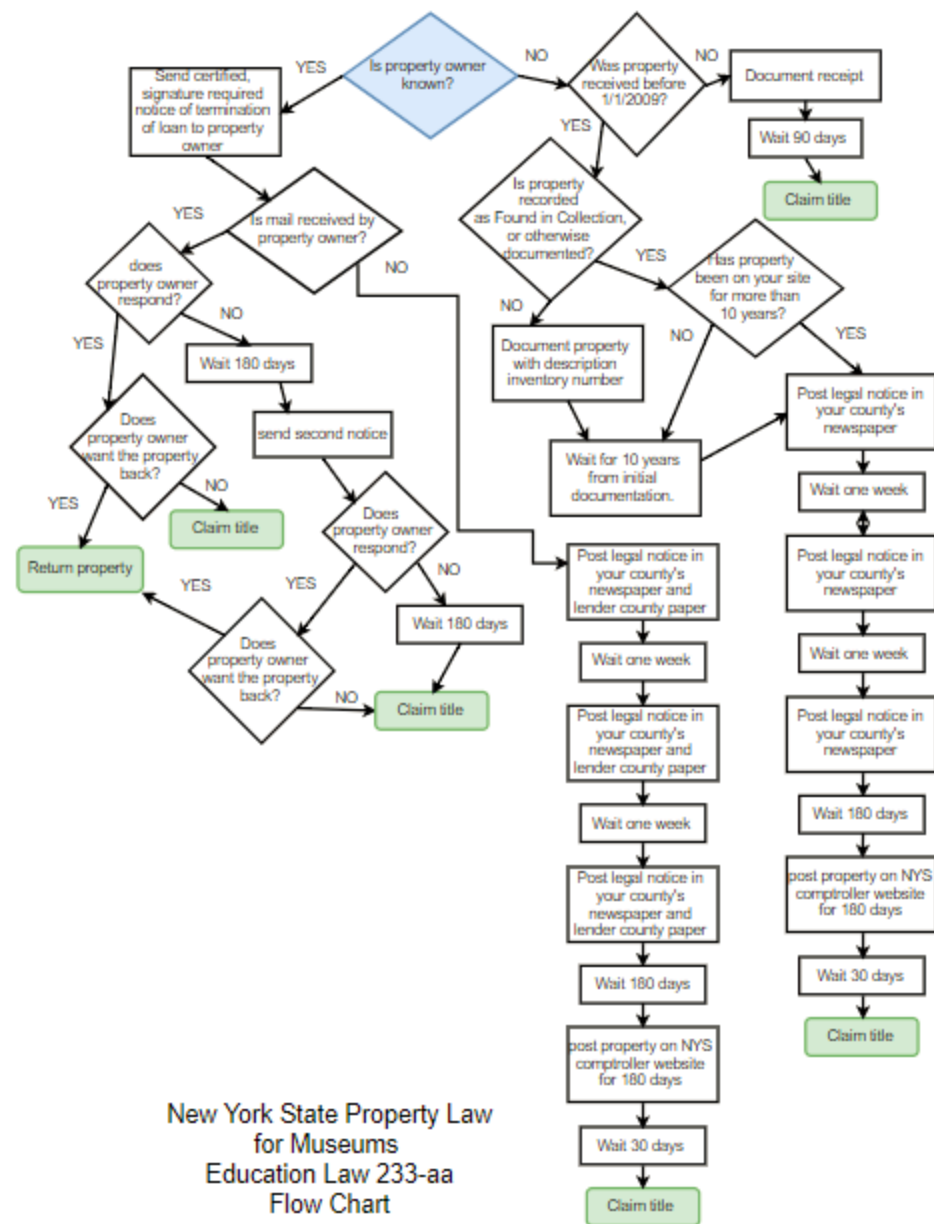
So, you will have waited 11 years and 55 days to claim title.



YOU MADE IT TO THE END!







New York State Property Law for Museums Education Law 233-aa Flow Chart

QUESTIONS?



DHPS | NY

DOCUMENTARY HERITAGE  
& PRESERVATION SERVICES  
*FOR NEW YORK*

## *Questions?*

DHPSNY staff is available to answer your questions.  
Contact us at [info@dhpsny.org](mailto:info@dhpsny.org) or (215) 545-0613.

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 [@dhpsny](https://instagram.com/dhpsny)

 [@dhpsny](https://twitter.com/dhpsny)