

On Walden's Fonds

Life on the Frontier of Monetary Appraisal in the Canadian Archival Landscape

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ABSTRACT In his article “Stretching the Dollar” (*Archivaria* 11, Winter 1980–81), David Walden called upon archivists to become informed about the process of assigning monetary value to cultural property lest the “schism between fair market value and research value” undermine the collection mandates of our cultural repositories. Of all the core processes involved in archival practice, monetary appraisal remains particularly shrouded in mystery. The essential problem of how to reconcile *research value* with *fair market value* – concepts that are in many ways opposed to each other – has remained unsolved since Walden broached the issue. In the last 40 years, few theories to promote fair and accurate monetary appraisal based on the primary research value of archives have emerged.

We propose to reappraise Walden’s article in the context of the nearly synchronous parallel histories of the Canadian Cultural Property Export Review Board and the National Archival Appraisal Board. How have the existence of these boards shaped the Canadian context for assigning “fair market value” to cultural property? Has the schism narrowed or widened? What, if any, new issues have emerged with regard to determining values for archival properties? We advocate for an increased role for archivists in the monetary appraisal

¹ The authors would like to thank Karen Teeple and David Walden for reading drafts of this article and offering their constructive feedback and many invaluable insights.

of archival properties, and a broadening of the critical perspectives used to determine established values. We arrive at this reappraisal of the archival donation landscape by closely examining some of the common pitfalls of the appraisal methodologies and equivalency claims that are typically employed in determining value for tax credits in Canada.

RÉSUMÉ Dans son article « Stretching the Dollar » (*Archivaria* 11, hiver 1980-81), David Walden encourageait les archivistes à se familiariser avec le processus d'évaluation monétaire de biens culturels, craignant que « le schisme entre la juste valeur marchande et la *valeur de recherche* » ne mine les mandats de collection des dépositaires du patrimoine culturel. De tous les processus fondamentaux de la pratique archivistique, l'évaluation monétaire demeure particulièrement enveloppée de mystère. Le problème central de la réconciliation de la valeur de recherche et de la *juste valeur marchande* – concepts antinomiques à plusieurs égards – demeure non résolu depuis que Walden a abordé le sujet. Au cours des quarante dernières années, peu de théories visant à faire la promotion d'une juste et équitable évaluation de la valeur monétaire en fonction de la valeur de recherche des archives ont émergé.

Nous proposons de revoir l'article de Walden dans le contexte des histoires parallèles et presque synchrones de la Commission canadienne d'examen des exportations de biens culturels et du Conseil national d'évaluation des archives. Comment l'existence de ces institutions a-t-elle forgé le contexte canadien dans lequel est établie la « juste valeur marchande » des biens culturels? Le schisme s'est-il réduit ou agrandi? Le cas échéant, quels nouveaux enjeux sont apparus en regard de la détermination de la valeur des biens archivistiques? Nous plaidons en faveur d'un rôle accru des archivistes dans l'évaluation monétaire des biens d'archives, ainsi que d'un élargissement de la perspective critique utilisée pour déterminer la valeur établie. Nous arrivons à cette réévaluation de l'environnement des dons d'archives en nous penchant de plus près sur certains des écueils courants des méthodologies d'évaluation et des constats d'équivalence communément utilisée pour fixer la valeur des crédits d'impôt au Canada.

In his article “Stretching the Dollar,” David Walden called upon archivists to inform themselves about the process of assigning monetary value to cultural property, lest the “schism between fair market value and research value” undermine the collection mandates of cultural institutions.² The subsequent decades have shown that Walden’s concerns were well founded, as more than 40 years have passed without a satisfactory resolution to the inherent tension between these concepts of market and research value. This article undertakes a literature review and a discussion of archival monetary appraisal in order to evaluate how the profession has responded in the years since Walden identified this schism. We consider Walden’s article in the context of the nearly synchronous parallel histories of the Canadian Cultural Property Export Review Board (CCPERB), which was established in Canada in 1977,³ following the passing of the *Cultural Property Export and Import Act* in 1975. The purpose of this article is to review and update our community’s understanding of the monetary appraisal process in order to answer the crucial question, Does monetary appraisal, as it is currently practised in this country, serve the archival community’s interests?

Of all the processes involved in standard archival practice, monetary appraisal has remained particularly shrouded in mystery. In Canada, archivists have become accustomed to putting our collections in the hands of arm’s-length appraisers, who provide institutions with their expert opinions about the value of archival collections. Archivists, however, have been loath to explore these determinations, the theoretical arguments that underpin them, and their long-term implications, for archival repositories, regarding pragmatic concerns such as budgetary planning, acquisition mandates, and insurance values. As Canadian archival giant Terry Cook once noted, “The appraisal of private-sector archival records for money is a well-known if difficult art, and it is one in which I had very little experience as a working-level archivist.”⁴ If even an archivist of Terry Cook’s stature has expressed misgivings about the alienation of the archival profession from the monetary appraisal process, then who among us

2 David Walden, “Stretching the Dollar: Monetary Appraisal of Manuscripts,” *Archivaria* 11 (Winter 1980–81): 101–13.

3 Government of Canada, Canadian Cultural Property Export Review Board website, accessed February 10, 2020, <https://www.canada.ca/en/canadian-heritage/services/about-canadian-cultural-property-export-review-board.html>.

4 Terry Cook, “Bucks for Your Bytes: Monetary Appraisal for Tax Credit of Private-Sector Electronic Database Records,” *Archivaria* 62 (Fall 2006): 121–25.

can feel a truly confident grasp of the issues at hand? There are only a handful of short guidelines and articles written specifically to help Canadian archivists and administrators understand the monetary appraisal process.⁵ These works have tended to emphasize the need for archivists to remove ourselves from the process of determining monetary value – to avoid conflict of interest – rather than to empower us to participate in the process of determining fair values for our collections. The specifics of navigating tax legislation and documentation standards are poorly understood. Few articles have even considered the inherent differences between describing properties for historical and research purposes and describing archival properties in preparation for monetary appraisal, and those that do tend to stop at articulating the problem instead of going on to offer potential solutions. As Stan Hanson writes in the ACA's *Monetary Appraisal of Archival Documents in Canada* guidebook,

There must be a recognition that letters and manuscripts possess ideological as well as research value, that an item or collection can have “general appeal” and “sentimental value.” . . . *Nevertheless, monetary value and cultural value cannot be equated.* Value is a relative concept and monetary appraisal is unavoidably subjective.⁶

The problem of bridging the gap between *research value* and *fair market value* – concepts which are almost fundamentally opposed – has remained essentially unchanged since Walden broached the issue in 1980. If anything, fears around the escalation of values associated with collectible properties have been realized, while few theories to support the monetary recognition of research value have emerged.⁷

5 For examples, see Stan Hanson, *The Monetary Appraisal of Archival Documents in Canada* (Ottawa: Association of Canadian Archivists, 1992); Laurenda Daniells, “Monetary Appraisal of Archives,” *ACA Bulletin* 17, no. 5 (1993): 6–7; Canadian Cultural Property Export Review Board, *Review Board Policies and Guidelines for Applications for Certification of Archival Audiovisual and Related Material* (Ottawa: Canadian Cultural Property Export Review Board, 2003).

6 Hanson, *The Monetary Appraisal of Archival Documents in Canada*, 20 (emphasis in original).

7 Peter Moran, “The Conspiracy Question: Inflation or Development?” *Archivaria* 6 (Summer 1978): 188. In this article, Moran warned of the dangers, for archival collection, of escalating price values and of the implications both of valuable collections being priced out of contention for acquisition by Canadian institutions and of over-payments to private collectors for items that should belong to the nation as a whole.

Underpinning the problem are two conceptual barriers that have hampered the monetary appraisal process as it exists in Canada. The first barrier is the distinction Walden raises between fair market value and free market value. Fair market value is defined by the Canada Revenue Agency (CRA) as “the highest price, expressed in dollars, that property would bring in an open and unrestricted market, between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other.”⁸ Such a concept does not, at first blush, appear to have much to do with the type of value sought by those who develop collections at memory institutions. As Walden observes, “It is understandable that a dealer wishes to sell his product at the highest possible price, but when doing so he should never be surprised when he meets resistance from his clientele.”⁹ The second barrier is the conceptual discord between the intrinsic value of an archival property (the reason it is collected in the first place) and the actual monetary value of such a property (the reason such properties might be bought and sold in an existing market). We would like to suggest that, for there to be any movement toward resolving these issues, not only is a fundamental shift in the process of evaluating the monetary value of archives conceptually warranted but this should also constitute the basis for a redefinition of cultural property values as they are applied to archives in Canada.

Our intent is to chart a theoretical basis for beginning this larger conversation about interpreting archival values in monetary terms. By examining the means by which valuations of archival properties have historically been made in Canada, we can readily see any number of administrative and theoretical improvements¹⁰ that could be incorporated into the practice of making such

8 Government of Canada, “Determining Fair Market Value of Non-Cash Gifts,” Canada Revenue Agency, November 2, 2018, accessed February 10, 2020, <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/issuing-receipts/determining-fair-market-value-gifts-kind-non-cash-gifts.html>.

9 Walden, “Stretching the Dollar,” 106.

10 For an additional articulation of the problem, with administrative fixes, see Robert K. Paterson’s case note on the *Sarick* case. Paterson explicitly highlights the shortcomings of administrative adjustments to cultural tax policy in Canada:

The *Sarick* case involved the question of how this benefit [a cultural tax concession] was to be measured and by whom and led directly to further change in cultural property valuation procedures for tax purposes. In the writer’s view, both these developments, in focusing entirely on procedure, fail to address underlying and recurrent concerns about who is best able to value art and other cultural property for tax purposes and the criteria that should (or should not) govern this exercise.

“Valuing Art for Tax Purposes in Canada – The *Sarick* Case and its Aftermath,” *International Journal of Cultural Property* 6, no. 1 (1997): 109–18, 109.

judgments. However, until the underlying principle of fair market value is re-examined and aligned with the institutional priorities of cultural heritage organizations, such valuations will continue to be controversial.

History of Appraisal Policy in Canada

Although the existence of the CCPERB has helped to clarify some of the mechanisms by which appraisals are generated and accepted in Canada, these processes remain alternatives to the more widely established process of issuing tax credits for gifts in kind (GIKs). Canada's historical legacy of tax crediting stretches back to May 1930, when former Prime Minister R.B. Bennett, then leader of the opposition, introduced an amendment "allowing for a maximum of 10 per cent of any taxpayer's income to be exempt from taxation" in recognition of the Mosaic Law stipulation "that one-tenth of an individual's income should be given to the church."¹¹ So uncontroversial was the tax credit for charitable donations that all parties agreed to the private member's bill. The provision was used quietly in accumulating archival materials in the nation's archives and was not widely publicized due to civil servants' fears of acquiring the "accumulated junk" of the nation's thinkers and politicians and of wealthy people merely looking for tax shelters.¹² The awarding of a fair market value for GIK donations could be seen as relatively trivial because the total value of such donations was minimal in terms of revenue loss – similar to that of donations to political parties or charitable organizations. Given the lack of incentives in Canada for the outright purchase of archival and historical properties of national importance, the tool of tax incentives has been one of the few means of acquiring Canadian cultural property. For example, Margaret Atwood's papers have been acquired by the University of Toronto's Thomas Fisher Library¹³ under the terms of such tax

11 David Walden, "The Tax Credit System: Blessing or Burden?" *Archivaria* 18 (Summer 1984): 84.

12 This oft-cited reference to archives as junk has been attributed to J. Delavignette of the Department of National Revenue assessments branch, in correspondence with L.G. Macpherson, Vice-Principal (Finance) and was copied in a letter to Dr. W.I. Smith, Dominion Archivist (May 19, 1970), from the private collection of R.S. Gordon, Director, Manuscript Division, PAC. The source of the reference was anonymous until the provenance was revealed in Walden's article in 1984.

13 That the legislation has allowed for the preservation of Canadian cultural heritage properties in Canadian institutions is incontrovertible. Generally, the specifics of the terms and figures have been quietly withheld from public scrutiny under the cover of protection of privacy. In 2014, there was a leak of confidential tax information,

incentives, whereas Michael Ondaatje's were purchased by the Harry Ransom Center in Austin, Texas.¹⁴

More confusing still for the outsider, the existence of the National Archival Appraisal Board (NAAB) predates the passing of CCPERB legislation. The NAAB was established in 1974 and operated under the auspices of the Canadian Historical Association (CHA) until 1983, when the charitable organization officially incorporated as a separate entity. The founding of the NAAB was an early step toward standardizing what had often been a chaotic and inconsistent approach to monetary appraisal of cultural property prior to the 1970s. The NAAB's mandate established a consensus approach to the subjective process of conducting monetary appraisals by creating expert panels drawn from different sectors of the cultural community; these included academics, archivists, subject specialists, and antiquarian booksellers, who independently determined values given to assessed properties.¹⁵ Ideally, this broad, consensus-based approach provides built-in insurance against the potential for distortion of appraisal values, which can occur when these are derived from the perspective of a single expert or specialist, and leverages the distinct professional competencies of archivists in particular to appraise properties with which they are most familiar, such as maps, documentary art, and other collectible materials often found in archival collections. The NAAB has historically struggled both with drawing upon a wide enough demographic of expert panellists to represent its mandated aim of diversity and with establishing membership criteria.

which included the tax information of Margaret Atwood and other prominent Canadians such as Jean Chrétien, Frank Sobey, Lynn Johnston, Allan Gregg, and others. Dean Beeby, "Canada Revenue Agency Privacy Breach Leaks Prominent Canadians' Tax Details," CBC News, November 25, 2014, accessed February 10, 2020, <https://www.cbc.ca/news/politics/canada-revenue-agency-privacy-breach-leaks-prominent-canadians-tax-details-1.2849336>.

14 "Michael Ondaatje: A Preliminary Inventory of His Collection at the Harry Ransom Center," Harry Ransom Center, University of Texas at Austin, accessed February 10, 2020, <https://norman.hrc.utexas.edu/fasearch/findingAid.cfm?eadid=01272>.

15 For an in-depth history of the formation of the NAAB and the construction of its early charter, see Robert Stanley Gordon, "Appraisals for Tax Credit by the National Archival Appraisal Board," *Archivaria* 1 (Winter 1975–76): 74–79. Gordon's visionary role in establishing the panel approach to conducting monetary appraisals is worthy of another article highlighting the importance of collaboration between specialists and practitioners in determining "fair" values, but such an article is outside the scope of our historical summary.

The CCPERB was established in 1977 as a legislated requirement of the *Cultural Property Export and Import Act*.¹⁶ The Act was intended to encourage the preservation in Canada of significant examples of our artistic, historic, and scientific heritage. It accomplishes this objective through provisions that govern export and import controls, the designation of institutions and public authorities that have demonstrated the capacity to preserve cultural property and make it accessible to the public, tax incentives that encourage Canadians to donate or sell significant objects to designated institutions, and grants that assist public institutions with the purchase of cultural property.¹⁷ The responsibility for carrying out these measures is shared by the Minister of Canadian Heritage and the CCPERB, acting as an independent administrative tribunal.¹⁸ Commenting on the Act shortly after its passing, Sharon A. Williams outlined the legislation's three main purposes: to keep cultural properties in Canada, to create tax incentives to encourage private donation, and to satisfy international obligations.¹⁹ The portion of the Act governing archival properties appears to have been secondary to the main intention of the legislation, which was to comply with Canada's UNESCO commitments "to aid in the recovery and return of illegally transported cultural property."²⁰

The introduction of CCPERB status into the monetary appraisal landscape stratified the rules governing the appraisal of archival materials. Whereas the pre-existing GIK system could be regarded as a *laissez-faire* nod toward agreements between interested parties in determining some value for archival properties, the creation of a new tier of tax incentives led to the development of a bureaucratic mode (in the sense of increased paperwork and documentation) of determining fair market values according to stricter, and increasingly untenable, objective standards. The CCPERB therefore has struggled to balance

16 Government of Canada, "About CCPERB," Canadian Cultural Property Export Review Board, accessed February 10, 2020, <https://ccperb-cceebc.gc.ca/en/about-us/about.html>.

17 Canada, Ministry of Canadian Heritage and Official Languages, *Cultural Property Export and Import Act: Annual Report 2010–11* (Ottawa: Canadian Heritage, 2012), iii.

18 Government of Canada, *Cultural Property Export and Import Act* (R.S.C., 1985, c. C-51), accessed February 10, 2020, <http://laws-lois.justice.gc.ca/eng/acts/C-51/>.

19 Sharon Williams, "Protection of Cultural Property: The Canadian Approach," *Arizona Law Review* 22, no. 3 (1980): 739.

20 *Ibid.*, 738.

a commitment to one of its principal goals, the creation of tax incentives that encourage private donation, with the need to ensure that such incentives are not so generous as to unfairly burden the Canadian taxpayer. Though the CRA has typically viewed the issuance of tax credits for cultural property as a minor issue, archival properties do account for nearly a quarter of total CCPERB applications each year.²¹

Thus, there are currently two systems in place in Canada: GIK, with a long but not very public history; and CCPERB, a top-tier cultural properties legislation. CCPERB donations offer two major advantages over GIK donations: donors are not limited to donating a maximum of 15 percent of their income in the year of donation; and CCPERB receipts can be applied to capital gains. These two conditions make CCPERB benefits materially beneficial only to extremely wealthy donors, who are essentially rewarded for sheltering estate or corporate taxes. For example, a collection of letters donated under the terms of a CCPERB donation would be worth substantially more than the same collection donated under the terms of a GIK, provided that the donor was sufficiently wealthy to claim the CCPERB tax credit and the receiving institution was willing to submit the application – even if the donations were assessed for the same independently determined monetary appraisal value. The terms of these different benefits are not well understood by archivists nor by the general public.

It is perhaps not surprising that there is discord at the fundamental level of value determinations in this context, because the process employed has been cobbled together from legislation and procedures designed for other purposes. The collection-development needs of Canada's archival repositories have never been a primary consideration in the construction of laws governing the disposition and donation of archival properties. The government's definition of a fair market attempts to map real estate terminology onto already complex and imprecise language used to define *outstanding significance* and *national importance*.²² The CCPERB was created through a subclause of a kind of omnibus legislation with tax incentives buried in the middle of international agreements

21 For a more comprehensive overview of grants, decisions, and applications, see the CCPERB annual reports: "Cultural Property Export and Import Act – Annual Reports," Government of Canada, accessed February 12, 2020, <https://www.canada.ca/en/canadian-heritage/services/publications-cultural-property.html>.

22 The recent decision to remove the term *national importance* from the collecting criteria for cultural property (see amendment to subsection 11(1)(a) of the *Cultural Property Export and Import Act*, passed June 21, 2019), like the imposition of the term *fair market value*, stemmed from legal challenges concerning submissions to CCPERB.

and the rhetoric of national pride. Likewise, the original introduction of tax credits in Canada was incidental to the application of charitable tithing to a temporary war measures tax, which was never revoked when the war ended.

To ensure that its determinations of fair market value ostensibly reflect values obtained in the open and unrestricted marketplace, the CCPERB has developed increasingly rigorous guidelines compelling appraisers to justify and substantiate their appraisals, wherever possible, with reference to recent sales of comparable objects, including through references to bills of sale or equivalent documentation. As long as the essential elements of the definition of fair market value are in place, relevant sales can include those realized at auction or those made by commercial dealers. In the absence of relevant sales information from the marketplace, the board requires, at the very least, a "reasoned justification"²³ and has often required further evidence supporting the suggested values. In the case of archival material, for which market evidence is often limited, the board recognizes the need to consider the methodologies used by the appraisers, including the formulas applied for various components of collections, particularly those that are complex and multi-dimensional. In 1995, the CCPERB adopted the use of a market adjustment factor, in a move aimed at reducing the total appraised values of incoming collections.²⁴

At this time, the CCPERB also noted an increase in audiovisual and media donations, which ultimately led to the pilot project *Describing and Selecting Audiovisual and Electronic Resources*, undertaken from January to December 2010.²⁵ The update concluded in July 2011, and the recommended provisional changes were implemented following a period of transition between December 2011 and March 2012. These changes to the process of appraising episodic media

23 Reasoned justification takes into consideration such factors as rarity, quality, historical significance, identification of the most recent sales of other works by the creator in question, and, where applicable and demonstrable, recent sales of works by other creators of comparable stature in support of monetary valuations.

24 Canada, Canadian Heritage, "Cultural Property Export and Import Act: Cumulative Report 1992–1993 to 2003–2004," in *Cultural Property Export and Import Act: Annual Report 2004–2005* (Ottawa: Canadian Heritage, 2005), 18.

25 Canada, Ministry of Canadian Heritage and Official Languages, *Certification of Cultural Property for Income Tax Purposes by the Canadian Cultural Property Export Review Board: Application Guide and Supplementary Information* (Ottawa: Canadian Heritage, 2010), 18. It is worth noting the 15-year lag in the adoption of even a provisional appraisal methodology, indicative of the ad hoc mechanisms in place for developing a strategy for dealing with identified problems. It seems fair to say that CCPERB responds slowly to complications that appear during the certification process.

programming resulted in significantly lower appraised values for large media collections. The provisional criteria have now become standard, and appraisers are expected to sample production elements for episodic television programming donated for tax credit.²⁶

In the decades since the release of Walden's article, many millions of dollars' worth of archival material has been donated and certified through the CCPERB review process, but there has been very little subsequent analysis and discourse regarding the underpinnings of the process. The slow pace of bureaucratic change has occasionally resulted in unwanted attention to the shortcomings of the archival donation process in Canada. Rightly or wrongly, the perception of archives as potential tax shelters suggests at least the possibility that tax incentives may have undesirable effects upon the collecting practices of archives.

Literature Review

The touchstone on monetary appraisal has been David Walden's 1980 article "Stretching the Dollar: Monetary Appraisal of Manuscripts." This work outlines many areas of tension that continue to exist within the Canadian monetary appraisal landscape. For Walden, the necessary elements of a monetary appraisal include an inventory of the property being donated, a statement of its fair market value, a statement regarding the credentials of the appraiser of record, an authentication of the materials to be appraised, and a condition report.²⁷ Walden clearly elucidates the fundamental tension between the fact that archival properties are sought and retained primarily for their cultural value and the need for these properties to be assessed, at least in part, based on parameters typically associated with market value.

For the archivist, the research value of a collection should be the paramount concern during appraisal (and thereby attaching to it a monetary value) for purchase or for tax credit. Yet to distinguish between fair market (read monetary) value and the research value of

26 This method of determining monetary values for episodic content will be explored in greater detail in a later section of the article.

27 Walden, "Stretching the Dollar," 106.

a collection is often a difficult task, as no established market exists for research collections.²⁸

Walden considers appraisal to be a two-phase act including the process of fixing value and the act of stating that that fixed value is the “true value.”²⁹ Walden notes that the failure to acknowledge the subjective values that bleed into the appraisal process meant the initially dominant monetary appraisal paradigm was not well-guarded against those who would manipulate appraisals for personal gain.³⁰

Four years later, Walden continued his treatment of the Canadian monetary appraisal landscape with the article “The Tax Credit System: Blessing or Burden?” In this article, Walden further refines his critique of the ad hoc nature of appraisal methodologies, calling attention to obvious conflicts of interest such as appraisers basing “their fee on a percentage of the appraised value of the collection,” which varied “anywhere from 2 to 15 per cent.”³¹ He also considers how implementing a tax credit system through both GIK and CCPERB has undermined the power balance between donor and institution. “Under the present system – and as long as archives continue to underwrite the costs – the donor takes no risks, receives a free appraisal, and obtains an income tax rebate merely for donating the papers to the archives.”³² What is eroded in this scenario is the charitable function of the donation process, which was supposed to provide the incentive to donate in the first place. The article is an obvious call to arms encouraging archives to exert pressure on donors to recognize the research value of their donations as a primary objective of commencing the donation process. The tax incentive cannot be the starting place for acquiring records of historical importance.

In Walden's articles, we see the formation of a hierarchy of value paradigms, in which historical and cultural values are of the highest order, while monetary value, a lower-order system, has slowly eroded the natural hierarchy of value

28 Ibid., 104.

29 Ibid., 101.

30 Ibid., 106.

31 Walden, “The Tax Credit System,” 89. Thankfully, the authors have not heard of any recent examples of conflict of interest so egregious as percentage-based appraisal fees; however, we are not so naive as to be completely shocked by allegations that kickback schemes have occurred relatively recently. It is hard to know what takes place in the discussions between private donors and independent appraisers.

32 Ibid., 90.

assessments. Many of the best and most comprehensive archives have been donated without any tax incentive mechanism in place, simply because they fit within the institutional mandate of the collecting repository. When donors recognize the importance of the archival project of preserving personal papers, and when this recognition is combined with a desire to ensure the ongoing viability of a donor's personal legacy, they may be willing to waive monetary rewards for their donations and may even be better incentivized to make financial donations for the long-term care of their records. This consideration of the function of tax incentives is the basis of Walden's "blessing or burden" question, which acknowledges the administrative burden posed by preparing and submitting documentation for tax purposes. Indeed, Walden is not the last to notice this.

Working contemporaneously with Walden, Sam Kula published a study for UNESCO called *The Archival Appraisal of Moving Images*.³³ Although focused more specifically on the processes involved in assessing the historical or research value of moving image archives, Kula does take time to note both the tension involved in monetary appraisal and the frustration this can cause archivists, noting that monetary and historical significance "should, of course, relate to each other. That they frequently do not is an additional complication, particularly in countries in which donations of documentation can result in benefits to the donor as a result of tax legislation."³⁴ The existence of the tax incentive can conversely lead donors to feel unappreciated if the determined monetary value does not reflect the research or historical value they may have anticipated for their donation. In turn, the archivist may resent the need to pay inordinate attention to a large donation of ambiguously valuable materials that must be itemized, analyzed, and documented for tax receipting purposes and then again appraised under a different set of criteria for archival retention.

33 Sam Kula, *The Archival Appraisal of Moving Images: A RAMP Study with Guidelines* (Paris: United Nations Educational, Scientific and Cultural Organization, 1983), 130. Kula published again on the subject decades later, in the book *Appraising Moving Images: Accessing the Archival and Monetary Value of Film and Video Records* (Lanham, MD: Scarecrow Press, 2003).

34 Kula, *The Archival Appraisal of Moving Images*, 19.

Assessment of the monetary value of moving image documents . . . is an onerous responsibility that has been thrust on archivists in recent years. The experience to date with such valuation . . . has been generally unsatisfactory for both the donors and the archivists involved.³⁵

In 1992, Stan Hanson addressed the subject directly in the pamphlet *The Monetary Appraisal of Archival Documents in Canada*.³⁶ While optimistic as to the prospects for definitively arriving at tangible monetary values, Hanson notes that “nevertheless, monetary value and cultural value cannot be equated. Value is a relative concept and monetary appraisal is unavoidably subjective.”³⁷ Once again, the inescapable tension between differing value concepts is articulated. Although this work is short and oriented to practical concerns, Hanson wisely concludes,

It is only by identifying and evaluating archival selection criteria and combining these results with those factors which prevail in the marketplace that monetary value can be accurately established. Although there cannot be a real transfer of training or expertise, there can be a transfer of sympathy whereby the appraiser attempts to assume the mantle of archivist, scholar, collector.³⁸

It is this sympathetic position that tempers the assessment of monetary and cultural value and leads ultimately to the “unavoidably subjective” nature of the enterprise.

Terry Cook's 2006 article “Bucks for your Bytes: Monetary Appraisal for Tax Credit of Private-Sector Electronic Database Records” outlines 15 questions to consider in relation to valuing electronic records.³⁹ Despite the apparently narrow scope of Cook's investigations here, this article is relevant to the

35 Kula, *The Archival Appraisal of Moving Images*, 19.

36 Stan Hanson, *The Monetary Appraisal of Archival Documents in Canada* (Ottawa: Association of Canadian Archivists, 1992).

37 *Ibid.*, 19–20.

38 Hanson, 19–20.

39 Cook, “Bucks for your Bytes.” Cook's 15 questions aim to effectively establish the archival character of a given donation of electronic records, including the unique characteristics and qualities that encompass any property considered for archival retention.

broader discussion about monetary appraisal thanks to the useful conclusions that Cook draws:

In addition to concrete precedents and trends in market prices, [monetary] valuations are affected by the stature of the individual or corporation donating or selling the records, the research potential of the records, their completeness as a fonds (or their potential for completing a partial fonds already in archival custody), any intrinsic or aesthetic value as rare or beautiful works, and possible symbolic or national importance of the records.⁴⁰

Cook's article takes a complicated area of monetary appraisal – the problem of what to do with digital media that are, at least theoretically, infinitely reproducible – as an entry point for discussing how to measure and counterbalance competing priorities in the evaluation of an archival property. Cook's detailed assessment criteria and checklists also open up an expanded rationale for tying monetary value to functional and research values assessed by experts with diverse qualifications.

In 2010, Heather Home published a summary of current archival appraisal practices as they relate to tax receipting in her article "Monetary Archival Appraisal and Tax Receipting in Canada: An Update."⁴¹ Home surveys current practices through the lens of personal experience and an informal survey of cultural institutional practices in Canada, determining that "archivists are properly situated to push the archival agenda"⁴² and advocating for a greater involvement in the archival appraisal of donations through a higher cap for in-house appraisals, especially as these pertain to accruals, and greater oversight in the pre-appraisal and selection process. She also points to the structural irregularities of the monetary appraisal process in Canada by calling attention to the frustration regarding the CCPERB's arbitrary dismissal or challenge of the NAAB's evaluations. Such precedents undermine the NAAB's independent authority and can put archival repositories that follow due process in a difficult

⁴⁰ Ibid., 122.

⁴¹ Heather Home, "Monetary Archival Appraisal and Tax Receipting in Canada: An Update," *ACA Bulletin* (April 2010): 8–16.

⁴² Ibid., 16.

position with donors. Her article places a greater emphasis on the CCPERB than the GIK process; however, it remains a good exploration of practical problems in administrative processes from the perspective of contemporary archival practice.

Brock Silversides has contributed to the growing body of writing on the topic from the valuable perspective of someone who acts both as a monetary appraiser and as the head of an academic archival repository. "Preparing for Monetary Appraisals: A Guide for Canadian Archival Institutions"⁴³ and the transcript of a talk delivered in 2018, titled "Monetary Appraisal of Audiovisual Archives,"⁴⁴ both provide insight into the recent history of monetary appraisal in Canada. "Preparing for Monetary Appraisals" in particular provides a candid overview of the history of determining monetary values for audiovisual archival properties. Silversides unpacks the various justifications and lines of reasoning that underpin the range of values acceptable to the CCPERB. He also reiterates the central tension between recognizing research values and recognizing comparable sale and cost-replacement values, while providing an overview of the rationale for taking a varied approach to determining monetary values in the absence of necessary volume-of-sales figures under CRA criteria.

There are additional readings, of course, beyond what can be reasonably detailed in a brief literature review. These include the readings in the bibliography on monetary appraisal that forms the basis for study for practicing NAAB appraisers (PNAs), which is available on the NAAB website.⁴⁵ Although many of these articles are extremely insightful and raise interesting problems for the understanding of monetary appraisal, many of the core readings on the topic are more than 10 years old at the time of the writing of this article – a fact that reflects the slow pace of adaptation and innovation in the field.

The lack of perfect rationality in the marketplace, as identified in the literature review, requires a tempered response on the part of would-be appraisers in the archival field: a recognition that monetary values are subject to layers of value based on intangible qualities. Collector's markets are sentimental by

43 Brock Silversides, *Preparing For Monetary Appraisals: A Guide for Canadian Archival Institutions* (Ottawa: Association of Canadian Archivists, 2004).

44 Brock Silversides, "Monetary Appraisal of Audiovisual Archives" (paper presented at the American Society of Appraisers Personal Property Connoisseurship Conference, Dearborn, Michigan, May 2018).

45 See the bibliography at "Documentation," National Archival Appraisal Board, accessed February 10, 2020, <https://naab59175.wildapricot.org/Documentation>.

nature, characterized by people's excitement at auctions and their desire to preserve items for nostalgic reasons, and against the influence of rational and objective considerations. What is emphasized over and over again is the art, nuance, and difficulty of assigning monetary appraisal values to archives. As many of Canada's most active appraisers move inexorably closer to retirement, it is not a stretch to conclude that this field will continue to lose members in the absence of a systematic mechanism for community renewal. Pragmatically, we must examine how these values are determined, and how the knowledge that under-scores these determinations is derived and validated, so that the results can be examined in plain view and, consequently, a larger class of appraisers may be informed about how to make these determinations in the future.

Appraisal Methodologies

For many archivists, the engagement with the monetary appraisal process largely centres on the selection of an external appraiser, in whom most of the responsibility for determining value is entrusted. The appraiser typically writes a report comprising several prescribed elements: the definition of the term *fair market value*, a brief narrative describing the collection and its merits, a listing of the values given for items or portions of the donation, and a final summary of the total value. The archivist might contribute a biographical sketch that details the accomplishments of the person or corporate body from whom the archival donation originates. During this process, the appraiser will make a site visit to examine the property, which has been summarized in some kind of a finding guide or box listing. Apart from contributions to the biography and other ancillary information, the archivist is typically neither consulted during the monetary appraisal process nor expected to have an informed opinion as to whether the values given by an expert appraiser accurately reflect trade value, whether the basis on which an appraiser can claim to be qualified to make such assessments is valid, or whether there are standards upon which such claims of value may be adequately justified or corroborated. In fact, the archivist is often less informed about the monetary value of a donation than the donor, who may have either consulted with a professional appraiser before considering donation or purchased items included within the donation. The final appraisal report fixes the value of the material, and the institution subsequently issues a tax receipt

for the gift of in-kind or cultural-property materials at the value determined by the appraiser. If the amount is for a cultural property, the status of the gift is reviewed by the CCPERB before the tax receipt is issued. Once a receipt has been issued or authorized, a new precedent of accepted values, or a reasoned justification, has theoretically been generated.

Some archivists have advocated for a more hands-on approach. Peter Moran argues that "If public money is to be used to buy national, provincial, or local treasures, then a share in the evaluation of these treasures rests with the public through its representatives."⁴⁶ By viewing the archivist's role in the appraisal process through the lens of the ethics of dispensing public funds, Moran reminds us that the archivist has a public and professional obligation that should supersede any desire to keep donors happy or to reinforce an administrative bottom line for fundraising statistics or capital-campaign promotion.

We are hereby presented with two extreme images of the archivist: On the one hand, the typical archivist is perhaps uncharitably characterized to be lacking an investment in the monetary appraisal process, overly trusting in external expert opinion to fix value, largely ignorant of the financial factors potentially motivating donors, and disinterested in potential conflicts of interest between appraisers and donors. On the other hand, the ideal archivist described by Moran is a public representative who is responsibly invested in all aspects of the appraisal process, safeguarding the people's trust against the onslaught of capitalist forces that would decimate our cultural heritage. Pragmatically speaking, there is likely a middle ground between these representations, in which a little knowledge about the monetary appraisal process will free archivists from the threat of being fleeced while affording them the basic skills required to maintain honest and transparent donor relationships.

Appraisers working in Canada have used a variety of approaches to monetary appraisal, each with certain strengths and limitations. No approach has yet satisfactorily addressed the central tension between notions of monetary and archival value, which we have thus far attempted to delineate. However, for cultural property evaluations, only two approaches are officially sanctioned by the CCPERB: the sales comparison approach and the cost approach, which both require a reasoned justification for their corroboration.⁴⁷ In a rule that is meant

⁴⁶ Peter Moran, "The Conspiracy Question: Inflation or Development?" *Archivaria* 6 (Summer 1978): 189.

⁴⁷ Canada, Ministry of Canadian Heritage, *Certification of Cultural Property for Income Tax Purposes by the*

to keep values within the realm of current market forces, precedent values established by previous appraisals are considered only in the absence of cited market values and only for a partial justification of the overall value ascribed to an archival property.

Of course, the most obvious appraisal methodology requires no guessing. If an item has been purchased, then the value of the item has been specifically determined in a real market. Although it may not always be technically feasible to determine whether the market where a given transaction took place was open and unrestricted, the possession of a recent and valid sales receipt allows the appraiser to arrive at an essentially irrefutable value. What people pay in real money for archives is supposed to represent the value of archival donations. It is worth noting, however, that because the monetary value realized from the tax receipt will always be lower than the value of the sales receipt used to determine the tax credit, donations of cultural property appraised in this way would not benefit donors for tax receipting purposes, and therefore this approach does not tend to provide the incentive for cultural property donations that the legislation is meant to trigger.

Sales Comparison Model

The comparative sales approach, which uses sales data from auctions or other markets, has been the predominant model used in monetary appraisals that have been submitted to the CCPERB over the years, as it forms the basis of the rationale in the legislation for assigning monetary value.⁴⁸ Since the earliest days of Canadian archival monetary appraisal, antiquarian booksellers have frequently been called upon to conduct monetary appraisals for archives, and naturally, their approach has involved the techniques they use while appraising manuscripts, personal papers, and rare books.⁴⁹ The strength of this approach

Canadian Cultural Property Export Review Board: Application Guide and Supplementary Information (Ottawa: Canadian Heritage, 2015), 38.

⁴⁸ The concept is implicit in the definition, i.e., the price a gift "would bring in an open and unrestricted market" if it were made available for sale. Government of Canada, Canada Revenue Agency, "Determining Fair Market Value of Non-Cash Gifts" (emphasis added). The legislation on gift-receipting assumes there is a real property being donated – the first ontological leap of the whole concept of gifting for tax credit.

⁴⁹ As any archivist who has ever explained what they do for a living can tell you, the notion that the kinds of records bought and sold by antiquarians are not necessarily archivally significant – and that not all archival documents have significant monetary value – is simply beyond the comprehension of most non-archivists.

is that comparative sales data, if and when one can locate it, represents more or less ironclad proof of monetary or market value. The crucial downside of the approach is that almost no such sales data exists for the vast majority of archival properties, such as routine business records, personal research files, or commonplace family records, which fundamentally lack any real market value – a fact that often goes unnoticed in the antiquarian approach to paper appraisals. Elwood Jones has contended that archival values are real market values, except that archives intercede in order to prevent the sale of archival papers and thus preserve them: “They are not available in a general market precisely because they have been donated.”⁵⁰ A secondary consideration is the strength of the equivalence between a sold property and the property being evaluated for a monetary appraisal in the absence of sales data. Obviously, they are not the same article, and so the strength of the analogy is always subject to some degree of interpretation and debate. This issue has historically led to various diversions down the path of evaluatory absurdity, perhaps most famously in antiquarian bookseller Bernard Amtmann’s valuation of the papers of a county district judge based on tenuous comparisons to the papers of prime ministers, world famous philosophers, and authors.⁵¹

The CRA’s definition of fair market value, as previously cited, means that seller and buyer both have to be knowledgeable and independent of one another, but the degree to which a knowledgeable buyer acts incompetently or extravagantly in purchasing a property at an inflated price, thus establishing a market precedent, is also open to some interpretation and debate. In the evaluation of a known sales figure, who is to say whether the buyer or seller acted prudently? Such speculation invokes a level of market knowledge that is beyond the competency of professional appraisers, given their limited access to actual sales figures. It is precisely those previously considered sentimental values and the quirks of collectors that skew actual sales. Nor can the prudence and good judgment of reputable antiquarian booksellers be relied upon as the sole measure of valid

50 Elwood Jones, “Fair Market Value in Real Markets,” in *The Future of Monetary Archival Appraisal in Canada*, proceedings of the 2007 NAAB Conference, Ottawa, Ontario, October 22–23, 2007 (Ottawa: National Archival Appraisal Board, 2007), 67.

51 Bernard Amtmann, “A Conspiracy Against the Canadian Identity,” *Archivaria* 5 (Winter 1977–78): 191–94. As part of this infamous line of reasoning, Amtmann claimed “that Canadians are essentially uninterested in the history of their country, and are singularly endowed with apathetic feelings of national pride” (194) based on his inability to drum up interest in the purchase of the Gowan papers at the impressively steep price he had arrived at.

sales figures, given that this same market, acting prudently, drives the escalation of values in collectible markets. Should archives be removed from the fluctuations of changing tastes and fashions as they influence previous sales figures? Since such properties are seldom sold on an open market, it would seem somewhat spurious to assume that appraisers can keep abreast of the times on equivalency claims between alike properties, in the face of known comparative sales figures years or decades removed from the actual donation being evaluated in the present economy. Marcel Caya, in his chapter “Évaluation monétaire,”⁵² gives the example of sales values for signed photographs tied to particular events, such as trade fairs or sporting events, which would not receive the same values even just a few months later. The existence of an applicable sales figure does not automatically imply a valid fair market value claim. All pretensions to objectivity aside, the comparable sales rationale is still very much an exercise in metaphorical persuasion on the part of the appraiser.

Past CCPERB Precedent Value Approach

More experienced appraisers tend to employ previously accepted CCPERB values for establishing precedents, either wholly or in part, when conducting appraisals for CCPERB submissions. Interestingly, the CCPERB does not unequivocally acknowledge this as a valid form of conducting appraisals. Nonetheless, it authorizes the use of precedent values in the declared absence of actual sales figures. Appraisers who have a sufficient record of previously accepted appraisals to draw upon may employ precedent values in assessing monetary value for properties in a wide range of media formats during subsequent appraisals, without much reliance on other factors. Using these precedent values as a comparative methodology has the theoretical benefit of reinforcing a history of like values from which future valuations can be derived. In practice, the precedent value approach is subject to some fairly significant limitations. This approach does not account for market fluctuations that may have occurred since donations of similar items accepted by the CCPERB. Another issue arises because the monetary appraisal reports remain secret by default, under cover of tax privacy.⁵³ Thus appraisers are forced to limit their comparisons to those appraisals they

52 Marcel Caya, “Évaluation monétaire,” in *La gestion des archives photographiques*, ed. Normand Charbonneau et Mario Robert (Québec: Presses de l'Université du Québec, 2001), 63–64.

53 Silversides, “Monetary Appraisal of Audiovisual Archives,” 4.

have already conducted. If there are any significant inaccuracies in the appraisal estimates, these may be compounded rather than corrected.

Another issue with the past precedent values approach arises during comparisons of the papers of different entities and individuals. That the papers of a politician should have comparable historical and cultural importance to those of an artist or an academic often requires a stretch of the imagination; because the personal papers of individuals are so infrequently sold in the open market, it is often only the most famous person's papers in a given field that constitute an actual saleable property. Should a folk singer receive an exponentially higher tax credit than a Nobel laureate in a theoretical science because the former operates in a sector that supports commercial production? Should the designer of luxury vehicles receive more than the creator of a medication for the treatment of an obscure disease? Precedent values are driven by innumerable variables and the cultural proclivities of individual appraisers. To err in favour of our own personal tastes is human, but these can be wildly idiosyncratic when considered against the tastes of the broader public, as reflected, for example, in the sales values for retro beer commercials and swimsuit posters evident on online auction sites.

In contrast with value in the comparative sales model, precedent value is determined on the basis of previously agreed terms, which may not include any sales data at all. Thus, the precedent model possesses even more circularity of authority than comparative sales data. The most compromising allegation you could potentially make regarding sales data would be that a seller had been duped or behaved incompetently, whereas in the case of previously approved CCPERB precedents, the source value could be drawn from thin air, backed by nothing more than the established authority of an individual appraiser. When relying on precedent, there is a greater danger that bubble values might be authenticated based on the speculations of experts. The further practical limitation of using this approach with the CCPERB is that the board could potentially reject arguments that appear to lean too heavily on previously accepted values. Indeed, there are indications that the CCPERB may already be working toward further restrictions on the application of this methodology.

Cost Replacement Approach

The cost replacement approach has been employed by appraisers working on large collections composed predominantly of materials in mixed audiovisual media formats. This approach posits that there is archival value inherent in the

large volume of production elements that typically accompany donations of film and television materials while also acknowledging the lack of market-value comparators for this type of material. Silversides considers the issue of volume arising in part because of the rapid pace of technological change in the 1990s, which created a wide array of new media formats, and the wildly different values assigned to these kinds of properties at that time. The use of replacement cost as a methodology has been rationalized on the grounds that “all documents regardless of their medium, have a base cost to produce.”⁵⁴

Having established the outstanding significance and the lack of market value for a collection of media elements, an appraiser using the cost replacement approach to monetary appraisal typically assigns a value to the items based on the cost to replace the media containers themselves, according to current market rates. For example, if one were to appraise a collection of archivally valuable production elements contained on 10,000 DVCPRO cassettes using this method, the formula for arriving at the total appraised value would be $10,000 \times \text{cost of new/replacement DVCPRO cassettes (approximately } \$15) = \$150,000$. From this simple example, it is easy to see how large valuations can quickly add up with the cost replacement approach. Perhaps as a result of the popularity of this approach and the very high appraised values that it tends to generate, it has recently been subject to some scrutiny by the board.

One weakness of this approach is that an appraiser may inadvertently assign monetary value to duplicate or useless items. Such calculations imply the inability of the appraiser to review the content of large media collections on an item-by-item basis. Conversely, individual items of high potential value may be identified by properly reviewing select items in such a collection.⁵⁵ What if archival papers were addressed this way? Should 500 sheets of paper equal \$10? If a box of paper is worth \$50 because of the paper it is printed on, does that not bring into question the entire archival process? Conceptually, this approach seems so divorced from the notion of the cultural or research value of collections that it may be regarded as cynical. Obsolete formats may in fact incur large costs for the archives in terms of digitization and preservation – not to mention the

⁵⁴ *Ibid.*, 2.

⁵⁵ For example, the authors of this article encountered such a scenario during the creation of an inventory for a music company, in which we identified an original reel-to-reel demo of the iconic Canadian band the Tragically Hip in a box of unmarked demos.

processing time involved in sorting through production elements for an accurate archival appraisal of their content. Archives should be required to have intellectual control over the items they are accessioning before a monetary value is assigned to those collections. It is a major weakness of the cost replacement approach that archival appraisal for selection is not an integral part of the monetary appraisal process. These issues are further complicated in the case of electronic and born-digital records. A committee of the Canadian Council of Archives (CCA) and the NAAB⁵⁶ is currently exploring this issue.

Blockage Discount or Artificial Devaluation Methods

We have grouped monetary appraisal strategies including blockage discounts, algorithmic valuation, and macroappraisal together based on their similarities. Since the federal government commissioned a report by a US law firm⁵⁷ on the application of blockage discounts in 2016, the CCPERB has made it mandatory for appraisal reports to consider whether such measures should be applied to archival collections submitted to the board. In the event a submission takes the position that blockage discounts should not apply, the CCPERB now requires a rationale for this decision. Blockage discounts function primarily as a deliberate means of reducing the assigned value for large properties that would otherwise receive an inflated item-by-item appraisal value. The idea, borrowed from its original use in securities markets and curiously similar to a tool first employed by the CCPERB in 1995,⁵⁸ has since been applied, for example, to television archives because of the volume of raw footage and items associated with each episode of serialized television productions. The resulting appraisal figures are therefore designed to be less extreme than those generated through other bulk valuation methods.

56 The first meeting of the NAAB Ad Hoc Committee on the Monetary Appraisal of Electronic Records took place on February 19, 2019, when the committee formulated a two-year mandate to review the issue and consult with stakeholders.

57 Jannette M. Barth, "Methodology for Calculating Blockage Discounts" (consultation document prepared for the Canadian Cultural Property Export Review Board, 2016).

58 The idea of a market adjustment factor also arose in 1995 out of the CCPERB pilot project on describing and selecting audiovisual and electronic resources. For further details, see the September 2010 version of *Certification of Cultural Property for Income Tax Purposes by the Canadian Cultural Property Export Review Board: Application Guide and Supplementary Information*.

The implementation of blockage discounts or market adjustment factors further complicates the appraisal process. The advocates of this approach have provided themselves a failsafe exemption that makes it difficult to understand when, if ever, such an approach might be implemented in the calculation of a monetary appraisal. As Barth points out in her CCPERB-commissioned report,

When is a blockage discount appropriate and when is it not appropriate? If there are hundreds or thousands of similar objects, it is often clear that blockage is relevant. However, if hundreds or thousands of such objects usually sell per year, then blockage may not be relevant. . . . each appraisal situation is unique and different factors are relevant in each case.⁵⁹

It seems, then, that one exemption to the need for blockage discounting is rarity. Any archival property not exhibiting a quality of rarity has not been subject to archival appraisal and therefore should not be appraised for monetary value. To be explicit, it is not the material format that is important in this consideration, but rather the content of the archive that makes it archival. Similarity is either archivally important, as in different states of photographic processes or editorial stages of a work, or it is not, in which case it should be expected that an archive has already weeded unnecessary duplicates. We would argue that the blockage discount approach could be wholly discarded if appraisers were allowed to be more transparent about the arbitrary nature of assigning bulk values. In other words, we need to acknowledge as a community that some values are not tied to a real market and then apply agreed standards regarding the fabricated values. If appraisers started with research value as the premise for evaluation, then inherently problematic donations of animation cells, duplicate sets of photographic prints, political cartoons, and television production elements would never be accepted by the institutions, unless they were already uniquely archival and therefore worthy of monetary appraisal.

Other Appraisal Approaches

Among appraisal methodologies, there are other, largely theoretical, systems that could be said to apply to the monetary appraisal field but which are seldom used

⁵⁹ Barth, "Methodology for Calculating Blockage Discounts," 1.

for archival appraisal. These methodologies include valuations of intellectual property, royalties, and revenue approaches. The CCPERB rejects intellectual property as a basis for determining cultural property but does allow for regular GIK gifting of finding aids and other rights within certain limits: The *Cultural Property Export and Import Act* “limits the Review Board’s jurisdiction to physical tangible property. If a disposition includes intellectual property rights, the recipient institution/public authority may issue an official tax receipt for income tax purposes for the intellectual property portion of the disposition.”⁶⁰

In the case of difficult and intangible properties such as electronic records, it may be worth looking at the known values of long-term storage and preservation in order to calculate what a property is worth to the institution that preserves it. In the related and comparable field of records management, the real market costs associated with in-house processing and long-term storage are reflected in linear rates multiplied over time. As institutions are legally obligated to preserve CCPERB-certified collections for a minimum of 25 years, appraising the value of these collections according to their related storage and processing costs represents a known, demonstrable quantity. A cost-based approach to appraising archival value would also establish good rationale for explaining processing and maintenance costs to donors.

Prescriptions and Provocations

Although Canadian monetary appraisers and archivists have made progress toward improving the monetary appraisal process in this country, the pace of change has been slow even by the normal standards of archival practice. There are many opportunities for incremental and fundamental changes to improve our practices and policies in this area. Archivists should not be afraid to advocate for new systems that better reflect our interests in preserving our national heritage.

60 Canada, Ministry of Canadian Heritage, *Certification of Cultural Property for Income Tax Purposes by the Canadian Cultural Property Export Review Board* (2015), 33. The issue of assigning a monetary value to the ironically more straightforward case of intellectual property rights was sidestepped by the decision not to consider such rights for certification. One could conceivably make the case that intellectual, reproduction, and public performance rights to certain items *should* be considered part of the outstanding significance of cultural property. After all, the Act is essentially nationalizing the creative and intellectual output of designated persons by certifying their works as part of the national cultural heritage.

The next step toward a new operating paradigm for monetary appraisal is for archivists to become familiar with the processes of determining value and with their limitations. Should archivists' intervention be required in evaluating whether an appraisal has gone bad or whether an evaluation will be subject to criticism from the revenue agency that grants us the authority to issue tax receipts in the first place, this knowledge will prevent the community from bearing the responsibility for improprieties in the field. We *should* feel uncomfortable about abandoning our responsibilities in any aspect of archival appraisal, and we should feel encouraged to insinuate ourselves into the monetary appraisal process.

Recent signs of positive change, including the review of membership criteria for the NAAB, may well provide an effective mechanism for greater transparency in disclosing appraisal standards. Making the NAAB's precedent values available to an increased pool of member appraisers will mean past values can subsequently be evaluated and standardized across the country. Sharing this information, even behind a disclosure barrier, is a positive first step in correcting errors and inconsistencies of past appraisals. Furthermore, it can only benefit the community for a wider class of interested people across the country to begin conducting monetary appraisals of archives. The strength of the NAAB is in its original emphasis on inclusivity, consensus building, training, and interdisciplinary oversight through the collaboration of historians, archivists, and subject specialists. Has the NAAB been under-utilized? Will increased membership push the reform of monetary appraisal forward as a priority for archives? How will discrepancies between the conclusions of NAAB panels and CCPERB decisions be resolved? The next several years may see a revitalized role for the NAAB in shaping policy in regard to problem areas like the monetary evaluation of electronic records and the establishment of national appraisal standards.

Stabilizing fair appraisal values within a range of comparables will also help increase transparency around what constitutes fair value for archival properties for tax receipting purposes in the absence of sales data. Walden was writing in the nascent days of Canadian monetary appraisal for tax credit, when it would not have made sense to refer to a standardized database of previously established values (i.e., a national archival monetary values index); but it is increasingly reasonable to suggest the creation of such a resource now, as more precedent values became available to practicing appraisers. Many in the field would contend, however, that applying such ranges will always involve a certain amount of subjective interpretation.

Can we establish fair tax value⁶¹ as a replacement for fair market value? The challenge of assigning market value to things with no market leads us to conclude that a monetary appraisal for archival property should not be required to be exact but, rather, to be sufficient: sufficiently accurate and compensatory to recognize the gift without resorting to the flimsy pretence of a market exchange in the donation and certification process. As this conclusion leads us away from the practicalities of the current appraisal system in this country and into the realm of the speculative, we would like to provoke further discussion by taking a moment to consider some alternate future appraisal and archival mechanisms that might be explored.

First, Canadian archivists should apply their creativity and ingenuity to making the archival system work for all classes of archival donors, not just for those who can benefit from tax incentives. When considering potential archival donations, the first question should be, Is it worth keeping? – not What is it worth? If the answer is yes, the right application should be made for the right reasons to provide for the creation of archives, whether that be by purchase, tax incentive, free donation, or endowment. In other words, we need to employ archival collection-development tools other than just tax incentives for wealthy donors. Does the buying and selling of archives potentially validate speculation on comparable sales? The CCPERB already deals in movable cultural property grants⁶² for purchasing, largely in the museum and gallery sectors, but we would propose expanding this program to include more archival properties, perhaps through an application program like Library and Archives Canada's

- 61 Fixing the definition of *fair tax value* would doubtlessly require a full-length report or study by some governmental agency, and considerable community input, before it could legitimately contend with the definition of *fair market value* as utilized by the Canada Revenue Agency. We would not presume to limit such a conversation by offering an authoritative definition within our speculations on future developments in this area; but we would hope that conditions would include, at a minimum, (1) the establishment of authority for its determination by consensus, multiple rationales, and reasoned justification by a diverse panel of expert and peer assessment; (2) the disclosure of benchmarks and standards; and (3) a respect for the cultural needs of the sector. We suspect that calculating individual tax benefits under such a guiding principle would be necessarily bureaucratic, but we see this as no more problematic than the current system, which is heavily reliant on a small number of expert appraisers.
- 62 Department of Canadian Heritage, "Movable Cultural Property Grants," Government of Canada, December 14, 2017, accessed May 29, 2019, <https://www.canada.ca/en/canadian-heritage/services/funding/movable-cultural-property.html>. Expanding the role of cultural property grants may require legislative changes, but it would be worth reviewing how equitably these grants have been distributed among different cultural sectors and whether they have been underutilized in their current articulation.

Documentary Heritage Communities Program (DHCP),⁶³ which would be open to smaller community-based archives and regional collecting repositories. Maybe Category A collecting institutions in Canada need more leeway to purchase archives of outstanding national significance and importance that are for sale at auction prices. Perhaps this means opening up more tax shelters for purchases with the intent to donate, like those that have operated in the film industry in the past. As the system currently operates, there are no real incentives for archival creators with significant cultural property to donate their archives if they are below the tax-paying threshold, as is the case for the vast majority of Canadian artists, writers, musicians, and other cultural figures. The archival community should ask itself how well it has served the non-commercially successful cultural sector. Such measures would not compromise the tax incentive model for receiving donations from wealthy donors; they would merely address all the other categories of donors who cannot currently benefit from the tax receipting system.

Second, instead of having two tiers of donations, which involve extra complications and are challenging to administer, why not re-evaluate the GIK tax rate, increase it somewhat, and eliminate CCPERB as a separate category of cultural donation? In reference to cash donations in the charitable sector, A. Abigail Payne, a policy analyst for the C.D. Howe Institute, noted an increasing trend toward large donations by upper-income donors, which has destabilized the charity sector.⁶⁴ Her suggested remedy for this problem was to eliminate the preferential tax rate for large charitable gifts, replacing it with a flat 29 percent tax rate for all donations. Payne argues this would leverage a broader, more stable donation base by explicitly promoting small contributions from a larger number of donors. We can see similar remedies working for the archival sector. Maybe the CCPERB is too good a deal for too few donors. Perhaps more archival purchases and fewer large, tax-motivated donations would provide a better financial incentive to donors, more in keeping with the original charitable intentions of the system. What valuable items are being collected under the auspices of the

63 Library and Archives Canada, "Documentary Heritage Communities Program," accessed February 10, 2020, <https://www.bac-lac.gc.ca/eng/services/documentary-heritage-communities-program/Pages/dhcp-portal.aspx>.

64 A. Abigail Payne, *Lending a Hand: How Federal Tax Policy Could Help Get More Cash to More Charities*, C.D. Howe Institute, November 30, 2009, accessed February 10, 2020, <https://www.cdhowe.org/public-policy-research/lending-hand-how-federal-tax-policy-could-help-get-more-cash-more-charities>.

CCPERB that could not have been acquired under the terms of GIK donations? The existence of the CCPERB distorts our perspective in two ways: first, by over-emphasizing cultural property standards in the oversight mechanism so that barely any attention is paid to what has been collected through the terms of GIK donations; and, second, by creating a gold standard that undermines the perception of value for GIK donations.⁶⁵ A single system might also be easier to operate administratively.⁶⁶ We could invest the resources of the unwieldy bureaucratic apparatus into establishing cultural-property purchasing grants instead.

Our third speculative provocation is that the veil of secrecy should be lifted from certified cultural property. Institutions could begin inserting clauses in donation agreements allowing for the publication or disclosure of archival values for collections. With this information freely available, we would be better able as a community to understand the range of archival values being applied to collections, to aim for more consistent values in archival appraisal, and to harmonize donor relations by tempering expectations and providing clarity in the monetary appraisal process. Allowing institutions to publicize the monetary values assigned to their collections would not be the same as revealing confidential tax information, in our opinion. The publication of values that we are proposing here would not reveal any information specifically related to the tax credits claimed on donors' personal tax returns, nor would it reveal how much income donors were sheltering. We think acknowledging the certified value of any donation awarded cultural status should be a reasonable concession: monetary value constitutes part of the recognition that the papers of an individual, private family, or company have become a nationalized property, belonging to all Canadians through their retention and preservation for posterity. It is hard to understand why this call for basic transparency is any more controversial than, for example, publicizing the expense claims of politicians in the course of their public activities.

65 The matter is further complicated by the benefit of cultural status as it applies to capital gains, from which CCPERB-certified donations are exempt. Calculating the capital gains for an archival collection is a whole other problem for appraisers, and one can certainly understand the appeal of looking at whether legislation should be amended to exempt archival properties from capital gains at the GIK level as well.

66 Many eligible institutions have already imposed a de facto single tier simply by refusing to submit CCPERB applications because of the requirement for added documentation, donor frustrations with long delays, and other administrative hurdles.

Allowing appraised and accepted values to be publicly shared would be a major step toward responsibly increasing the transparency of the donation process. It could also help to shift the focus to publicly celebrating donations of archival material, including their appraised values. We would also advocate for either the Government of Canada, Library and Archives Canada, or the NAAB to publish price list ranges for archival material. Such lists would give examples showing what the high and low end of an appraisal spectrum should look like and would prevent the anomalies of spurious evaluations from remaining hidden behind a veil of tax law confidentiality. There is no doubt that donors – or at least their accountants – talk among themselves about the realization of tax benefits. Part of our concern is ethical, but the archival community also requires a better mechanism for managing donor expectations. The public scrutiny of cultural valuations would allow archivists to explain to donors exactly why one donation is worth more than another and in much greater detail. In a best-case scenario, the public disclosure of realized tax benefits may in fact be a catalyst, spurring an increase of valuable donations⁶⁷ and allowing us as a community to have more decision-making autonomy regarding the kinds of donations we will ultimately accept. Alternately, if that level of transparency proves too unpalatable in the Canadian context, perhaps a system to facilitate internal sharing of data among CCPERB-certified public institutions could be created as an intermediary step. Transparency promotes good-faith donations. Institutions should likewise encourage donors to make donating without the expectation of a tax receipt the default position instead of the exception to the rule.

Conclusion

Having thus poked about in the murky edges of the monetary appraisal waters, we surmise that there are greater depths yet to explore. Does monetary appraisal, as it is currently practiced in this country, serve the archival community's interests? Generally speaking, we are arguing for a conceptual overhaul of the approach to

⁶⁷ Determining the fair market value on the basis of realized tax receipt value raises an alternate potential mechanism for pricing archives, in that the realized tax receipt value is a real market value, reduced by the actual difference between the appraised value and the dollar value, received as a deduction against income. If such values were used as purchasing benchmarks, this could have a correlative dampening effect on inflated prices within the archival community, akin to the use of wholesale pricing or lot sales in an auction environment.

monetary appraisal that would increase the role and responsibility of institutions' senior archivists to *responsibly* appraise for selection. Any and all attempts to map monetary value onto collections that are valued largely for their research, scholarly, and historical significance are inherently problematic, and vice versa. This tension is felt perhaps more keenly in archives than in other cultural institutional contexts because of the lack of visual, representational, and collectible value in archival collections when compared with gallery and museum collections, where these equivalents are perhaps more easily established. Culturally valuable archival properties have seldom been assembled and retained because of their monetary value. Many collections of archival properties that also have substantial real market value have been divvied up and sold off on the private collectible market. Conversely, if an archival collection is littered with items of low archival value such as postcards and movie stills, we may want to advocate letting some of the collectibles go to auction or offering to return these items to the donor, letting them get their fair market value on an actual market and not through the auspices of a tax incentive system.

Forcing the concept of fair market value onto the evaluation of archives has led expert evaluators into a false allegiance when it comes to prioritizing monetary assessments for cultural materials. There can be no such thing as a fair market value in the absence of a fair market. What becomes clear from evaluating the mechanics of appraisal methodologies is that most fair market value claims are really based on precedent values, established by reference either to market sales or to previously accepted estimations of values based on market sales. The history of the CCPERB and the appraisal community to date shows numerous attempts to improve the procedural guidelines for monetizing cultural value. We believe these attempts are inherently misguided and would propose a different approach. By acknowledging the monetary-cultural value tension as a starting point, appraisers and the CCPERB can seek to arrive at a *fair* estimation of value as opposed to a chimerical value masquerading as a definitive sales price.

Once the need for market value is discarded, the original purpose of the CCPERB and the concerns of the Canadian people can be better represented in the argument. Following the rationale of establishing better consensus values also turns the debate around the realized value of any particular property into an evaluative process, based on accepted standards, in order to examine whether such a property falls within an accepted range. This makes final, realized values less market-specific and less focused on whether a given property also happens

to be saleable. Such a paradigm would invite input from a broader base of appraisers from different disciplines, with a wider skill set of subject-specific knowledge and expertise, and would free archives from their dependence on spurious equivalency claims from the antiquarian trade knowledge of dealers and booksellers.

As long as there is a demand for tax receipt values, an alternative market for the trade of cultural properties will continue to exist. Some of these properties, such as art works, have legitimate counterparts in the “real” market. Others, such as most archival properties, do not. As the archival community reconciles itself to new challenges that have arisen since Walden’s prescient assessment in the 1980s, it is our hope that we can create a better rubric for determining what archives are worth, in all their complexity. For instance, the development of more widely understood standards could help us to reconcile our practices with the reality of born-digital records, the lack of regional representation, the inequalities present in the documentation regarding marginalized people, and the issues of decentralized collections of national importance.⁶⁸ Archivists are extremely well placed to develop these kinds of assessment standards, given that they so closely correlate to the kinds of assessment we have undertaken for generations in appraising for selection, arrangement, safe storage, and access to the collections under our care.

⁶⁸ The authors wish to acknowledge that this paper was developed, completed, and submitted for publication prior to the CCPERB’s release of the *Canadian Cultural Property Export Review Board Guide for Monetary Appraisals* on July 31, 2020. A preliminary review of the new guidelines indicates that the board appears to have doubled down on the application of fair market value. In the archival context, this will inevitably force appraisers to engage more rigorously in the onerous task of citing largely non-existent previous sales data to validate comparables. We believe a more comprehensive re-evaluation of appraisal methodologies could alleviate some of the obvious impracticalities of having to constantly evaluate archives in this one-dimensional mode, and that the CCPERB would benefit from applying its energies to more systemic changes to the appraisal landscape in consultation with the affected communities. This situation is potentially more pressing now that “national importance” has been removed from the CCPERB’s collection criteria. It remains to be seen how an emphasis on “outstanding significance” alone will affect the collection priorities of the nation’s archives, centrally and regionally.

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