

# The New York Times

## A Dying Artist Left His Legacy to MoMA. Today He's Almost Forgotten.

Scott Burton, one of America's leading sculptors, entrusted his estate to the museum in 1989, when he was sick with AIDS, to ensure his place in art history. It turned out to be a bad idea.



Scott Burton, the sculptor, around 1986, on one of his granite benches at the University of Houston. Admirers have described him as a “lunch artist” whose work city dwellers encountered without realizing it was art. Jonathan E. Jareb

When the artist Scott Burton decided on his deathbed to leave his estate to the Museum of Modern Art in 1989, he thought he was securing a permanent place in art history books. Instead, the decision made him a mere footnote — almost invisible.

Before he died of AIDS-related causes at age 50, Burton was one of America's leading sculptors. His sleek granite chairs and tables carved a distinctive place at the intersection of art and furniture, and translated aloof minimalism into something approachable and sensual. “Burton is one of the first contemporary sculptors who created work that you are allowed to touch,” said the art historian David Gettsy.

At the time of his death, Burton's art was selling for more than \$100,000 to some of the era's most influential collectors and museums. He was also gaining traction as a public artist, collaborating with landscape architects and designers to create ambitious plazas in cities across the United States, [including](#) 787 Seventh Avenue in Midtown Manhattan, [formerly known as the Equitable Center](#).

That momentum came to a screeching halt after Burton died. Until this fall, Burton had not had a comprehensive museum exhibition in the United States in more than 35 years. Prices for his work at auction have plummeted by more than 50 percent, according to the Artnet Price Database. And roughly half of his large-scale, site-specific projects have been removed or modified, experts say. Elements of one of his '80s signature works, Battery Park City's ["Waterfront Plaza,"](#) are due to be removed next year as part of a broader refurbishment plan. After that, only two of Burton's five public works in New York City will survive as he designed them.



Scott Burton's "sculptural furniture" at the Equitable Center in Manhattan before its removal as part of a renovation. Kasmin Gallery, NY

The story of Scott Burton is a story about how fragile, mutable and, to some degree, arbitrary art history is. It illustrates how an artist's legacy can be transformed by one decision. In Burton's case, that choice was to leave his estate — including his art, belongings and copyright, as well as the ability to profit from the sale of his work and the responsibility to promote it — to MoMA. “I thought it was a good idea at the time,” Max Protetch, Burton's longtime art dealer, said in an interview. “It turns out to have not worked that way.”

Burton's story, however, is far from over. Decades later, an unlikely band of curators, scholars, and artists — many of whom never knew Burton personally — have become so invested in him that they are refusing to let his work fade into obscurity.

## A ‘Lunch Artist’

Burton was a compact man with strong opinions. Before he began making art full-time, he worked as a critic for *Art in America*. Elizabeth Baker, a former editor of the magazine, [once said](#) that Burton “wrote as he would later cut granite, with high style, great clarity of form and a very sharp edge.”

Yet Burton's public artworks — carefully assembled groupings of stone benches, tables, plantings and other elements — were “deeply generous,” said Álvaro Urbano, the Berlin-based artist whose solo exhibition inspired by Burton's work is currently at [SculptureCenter](#) in Long Island City, Queens, through March 2025. Urbano described Burton as a “lunch artist”: someone whose work city employees encounter every day when they go outside to have lunch. They didn't always realize they were interacting with art, and Burton, Urbano noted, didn't seem to care.



Battery Park City's "Waterfront Plaza," Burton's signature '80s design completed with Siah Armajani, Some elements will be removed next year as part of a broader refurbishment. "Waterfront Plaza' is an incredible achievement and it would be shortsighted to alter it without significant public review," said Jeremy Johnston, a curator. Battery Park City Authority

Burton's long relationship with MoMA began when he worked at the membership desk and the bookstore in his early 20s. Nine months before he died, he inaugurated the museum's "Artist's Choice" series, which invites artists to become curators, organizing shows from the collection. To the shock of some critics, [at MoMA](#) Burton presented Constantin Brancusi's plinths as sculptures in their own right, cleaved from the marble birds and chrome forms that typically rest upon them.

Although Burton knew he had H.I.V. by the mid-1980s, he did not make a will. On a trip to Stuttgart, Germany, in late summer 1989, the artist fell ill and was rushed to the hospital. Laurence Shopmaker, then a director at the Max Protetch Gallery that represented Burton, flew to his bedside from New York to make arrangements. "Nobody wanted him to travel until there was a will drawn up," Shopmaker recalled. After signing a provisional will, Burton flew back to New York, lying down across multiple seats in the back of the plane.

In his final weeks, the artist convened his inner circle at his apartment for a Christmas party that felt a bit like a wake. “It was everyone saying goodbye and forgiving one another,” Protetch said. Around this time, Burton was also meeting with lawyers, friends and colleagues — including, documents in the artist’s archive suggest, with Kirk Varnedoe, MoMA’s then-curator of painting and sculpture — to discuss his estate plan. “A lot of the decisions were made in a rush,” said Nina Felshin, a curator and Burton’s former assistant, recalling the frantic days at the end of his life.

Burton was in and out of the hospital for several months but never recovered. He died on Dec. 29, 1989. The artist had no immediate family and initially left his assets to his partner, Jonathan Erlitz. (Burton, who distanced himself from his [explicitly queer early performances](#) during the 1970s, for fear of compromising his growing career as a public artist, described Erlitz in his will as a “friend.”) After Erlitz died in 1998, Burton’s art, belongings, archive and copyright went to MoMA, according to the will.

It is unclear whether MoMA approved, or was even formally informed of, Burton’s plan. (One version of the will notes that if MoMA did not accept the deal, Burton’s assets would be distributed among other museums.) All that is known for sure is that the museum eventually agreed. For Varnedoe, Getsy said, “I can imagine this was an emotional experience — seeing his friend pass away and wanting to help.”

Proceeds from the sale of his work benefited the Scott Burton Memorial Fund, which is dedicated to exploring “the close relationship between the fine and applied arts” and “promoting and preserving” Burton’s artistic reputation. As part of its responsibility, it was understood that MoMA would facilitate Burton exhibitions, publications and sales.



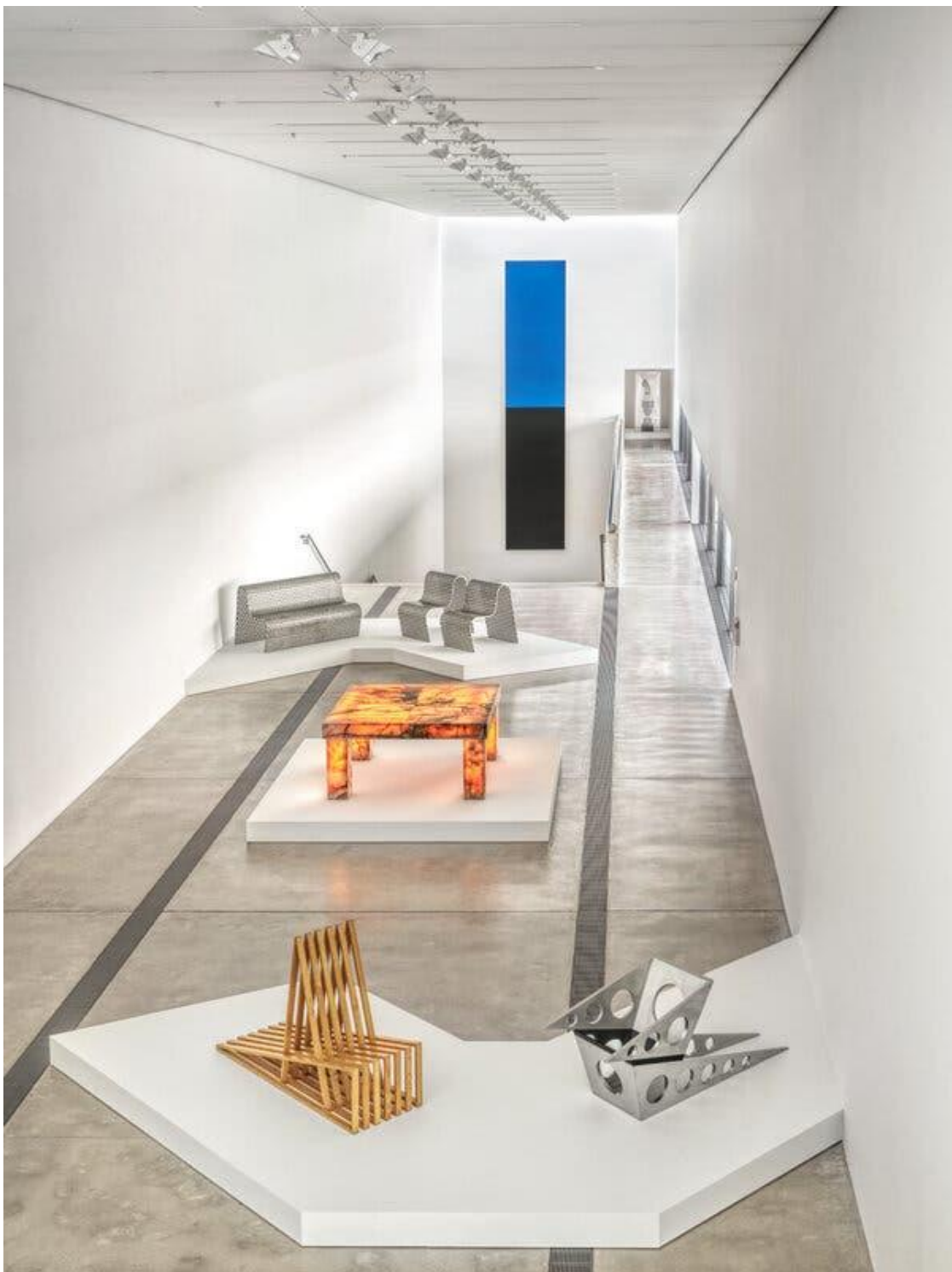
Scott Burton's sculpture "Two-Part Chairs, Obtuse Angle (A Pair)," at the Minneapolis Sculpture Garden, Walker Art Center, 2015. Raymond Boyd/Getty Images

How did Burton's choice to entrust his legacy to one of the world's most powerful art museums backfire? "A museum is not built to do this," Getsy said. Their missions are at odds: Museums like MoMA are designed to connect people to a wide range of art through impartial scholarship, while an estate is supposed to market the work of an individual artist. "I would never recommend it to anyone," Felshin said of Burton's choice.

## Good Intentions, Bad Outcome

Ann Temkin, MoMA's chief curator of painting and sculpture since 2008, has been working for years to solve the Burton puzzle: how to promote the artist's work and reputation within an institution poorly suited to the job? Progress has been slow, in large part, Temkin said, because the scenario is unprecedented. "This notion of us representing one specific artist is definitely an unusual situation, shall we say," she said. She noted that MoMA has been offered large bequests of work by other artists and has not accepted them.

In January, Temkin and a group of expert advisers, including Getsy, Felshin and the curator Jeremy Johnston, began meeting every few months to discuss next steps. At a time when the barriers between fine and decorative arts are breaking down and the history of queer art is being written by a new generation of scholars, “we are very conscious of the great fact that Scott Burton is feeling very ‘of this moment,’” Temkin said. In September, the Pulitzer Arts Foundation in St. Louis opened the largest exhibition of the artist’s work since his death, bringing together archival material and more than 40 sculptures (through Feb. 2, 2025).



The Pulitzer Arts Foundation in St. Louis opened the largest exhibition of the artist’s work since his death, bringing together more than 40 sculptures. Pulitzer Arts Foundation and Alise O’Brien Photography

MoMA worked with Max Protetch Gallery (later known as Meulenstein Gallery) until it closed in 2012. But no dealer has worked with the estate since.

Protetch said he made a point of calling Glenn Lowry, MoMA's director, "every few months to see if they had made some decisions" and even found himself "in the ridiculous position of suggesting art galleries they could work with," but eventually stopped following up. (Last week, a MoMA spokeswoman said finding a new dealer "is a subject we are exploring," guided by "our legal responsibilities.")

It is left to MoMA to determine if and how works by Burton will be posthumously manufactured and sold. (Burton conceived his sculptures in editions but did not make all of them during his life.) MoMA's approach to these thorny questions will be closely watched, because the field has not reached a consensus on how to evaluate sculptures produced after an artist's death. "It's a very big issue in sculpture going back to the 19th century," Temkin said.

Before the museum can find a gallery to represent Burton (let alone authorize the posthumous production of his sculptures), it plans to review his will and other legal documents to determine what the gallery would actually be able to sell, Temkin said.

MoMA has acquired 79 works through the Burton fund, mostly by other artists who bridge the gap between design and fine art. But activity has slowed since the museum stopped working with a gallery to sell Burton's sculptures, which supports the fund.

Without an official dealer, Burton's prices have tumbled. In the past year, no Burton work has sold at auction for more than \$50,000, according to the Artnet Price Database. "It's pitiful," said [Shopmaker](#), the art dealer. Some collectors have struggled to resell Burtons for less than half of their worth during his lifetime. "An artist's fame is based on various power centers — curators, writers, museums and dealers," Shopmaker said. "That fell apart for Scott."



To Shopmaker, the artist's current stature proves that there is "no correlation between success and talent."

## Back in the Spotlight

Burton's work — its subtlety, its intimate relationship to the viewer, and its receptivity to the way we interact in public space — continues to inspire. Today, a contingent of historians, artists and curators is working to keep Burton's legacy alive, even as his public art faces new threats.

In addition to the Pulitzer Arts Foundation show, Getsy, the author of "Queer Behavior" (2022), about Burton's early performance art, is working with Patrick Greaney to compile Burton's correspondence with the Argentine artist Eduardo Costa and publish it in 2025.

The Los Angeles-based artist [Oscar Tuazon](#), together with the gallery Kasmin and the New York City AIDS Memorial, is breathing new life into one of Burton's final public artworks: an array of lights, flag poles, weathervanes and ottomans [on the fishing piers in Sheepshead Bay, Brooklyn](#). Before New York City's Parks Department took apart the installation in 2022 (it had decayed over time and had been ravaged by Hurricane Sandy), it connected with Kasmin, which staged a show of Burton's work in 2015. (MoMA did not participate in the Kasmin exhibition, according to the gallery.)

"We made it our mission" to make sure the work "didn't go into the dumpster," said Eric Gleason, Kasmin's head of sales. Over nearly two years, he said, Kasmin has paid around \$100,000 to extricate and store the installation's salvageable elements. Tuazon plans to transform them into a new work, "Eternal Flame for Scott Burton," which is expected to be installed at the NYC AIDS Memorial in fall 2025.



Álvaro Urbano's exhibition at SculptureCenter exhumed a decommissioned Burton work, "Atrium Furnishment," after it was removed from 787 Seventh Avenue. Bess Adler for The New York Times

Urbano, the Berlin artist, exhumed another decommissioned Burton work, "Atrium Furnishment," from the storage facility where it has been collecting dust for years. In 2020, the owner of 787 Seventh Avenue removed Burton's 1986 installation as part of a renovation. Comprising a marble seating area, pink onyx lamps, and plants, the sculptural grouping was designed to resemble 9 to 5 on a clock, a nod to its corporate setting. "The piece is an ongoing ruin," said Urbano, who reconfigured part of the work at SculptureCenter. He hopes the exposure will help Burton's installation find a permanent home.

"It's the same problem over and over — because it's not bombastic and doesn't announce itself so prominently, planning people think it's nothing," said Johnston, the curator of the Equitable Art Collection, who has become a staunch advocate for Burton's work. He convinced the building's owners to pay for ongoing storage of "Atrium Furnishment," which weighs more than 100,000 pounds.

Johnston is now in conversation with the Battery Park City Authority about its plans for "Waterfront Plaza," which Burton designed with the artist Siah Armajani, the architect Cesar Pelli and the landscape architect M. Paul Friedberg. Seamlessly integrated into the plaza are curved, red granite benches facing the water and low steps and round ottomans that double as seating.



Nina Felshin and Jeremy Johnston, advocates for Scott Burton's work, at an Álvaro Urbano exhibition at the SculptureCenter in Long Island City, Queens. Urbano hopes Burton's work will find a permanent home. Bess Adler for The New York Times

To accommodate the construction of a flood wall and improve accessibility, BPCA plans to relocate the stepped seating; the other components, including a tapered granite column, will remain. “‘Waterfront Plaza’ is an incredible achievement and it would be shortsighted to alter it without significant public review,” Johnston said. A spokeswoman for the Battery Park City Authority, Shalini Ramaswamy, said it had been in touch with MoMA, which she said “was pleased” with the plans.

Burton’s complex legacy — invisible and visible, forgotten and enduring — makes the remarks that [Kirk Varnedoe](#), the MoMA curator, gave at the artist’s funeral feel prophetic. Those left behind by Burton and other artists lost to AIDS, Varnedoe said, would have to “take a relatively new approach” to keeping their memories alive, wondering what they would have done “if they had been able to fulfill their lives and careers.”

He had a premonition that what happened next for Burton would be “at least as fascinating as the enormous and moving body of work he left for us to see.”