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Real Estate Gifts: Trends, Recent Experience, and Recommendations

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As a practitioner involved for many years in helping charities attract and structure real estate gifts, I have accumulated abundant anecdotal information about such gifts. But I have found precious little hard data on trends and recent experience regarding real estate gifts.

My curiosity about the current state of real estate gifts was shared by the board of directors of the Planned Giving Group of New England. With input from PGGNE, I designed a survey on this topic for the group's 380 members. The survey was administered electronically over the summer of 2005, and I reported the results of that survey at the September 2005 meeting of the PGGNE membership. This article provides a similar report, along with recommendations in several areas based on my experience.

Studies indicate that more than $10 trillion of privately held real estate assets will change hands in the next 45 years. The enormous intergenerational transfer of privately held real estate wealth that is going on around us every day provides an enormous opportunity to attract substantial capital to the nonprofit sector. Yet, for most institutions, this remains a largely untapped opportunity.

With from 30 to 40 percent of the nation's wealth locked up in real estate assets, most estimates place gifts of real estate at only 2 to 3 percent of total charitable giving.

More than anything else, my interest in conducting this survey was motivated by a desire to better understand how this gap has come to exist, what is being done at some institutions to close it, and what remain as obstacles to pursuing real estate gifts at other institutions.

Current Activity and Trends

The PGGNE survey results suggest that increased recent attention to the real estate gift opportunity, in professional journals and the popular press, has resulted in growing interest in real estate gifts.

Changes in attitude toward real estate gifts in recent years:	
Have become more receptive	38%
Have become less receptive	5%
No change	56%

Furthermore, 40 percent of respondents said they actively market an interest in a variety of real estate gifts; 16 percent said they actively market an interest in only "simple" gifts of real estate (presumably outright gifts and bequests). Another 37 percent reported that they accept real estate gifts, but don't actively market their interest in such gifts, while only 3 percent reported that they absolutely don't accept real estate gifts.

Yet, even with increasing attention to attracting real estate gifts, 62 percent of respondents reported the value of their real estate gifts, as a percentage of total gifts, was 1 percent or less. Another 28 percent reported such gifts having a value of from 2 to 5 percent of total gifts. Only 10 percent of respondents — all of them colleges and universities — reported real estate gifts amounting to 6 percent or more of total gifts.

Similar patterns are seen in real estate gift inquiries, where 73 percent of reported receiving five or fewer inquiries per year.

Significantly, those institutions reporting 10 or more real estate inquiries per year, 10 or more completed gifts per year and reporting real estate gift values in excess of 6 percent of total gifts received, all described themselves as actively marketing their interest in a variety of types of real estate gifts.

Note: Real estate gifts don't appear unless an institution's interest in such gifts is actively communicated. Furthermore, the larger the variety of real estate gift options presented, the greater the likely volume of completed real estate gifts.

Overcoming Institutional Obstacles

In the cases where an institution reported a reluctance to pursue real estate gifts, the survey sought to determine the reasons for that reluctance.

If reluctant to accept real estate gifts, why?	
Liquidity risk concern	53%
Environmental risk concern	50%
Too time-consuming and complicated	50%
Reluctance in finance office	44%
No real estate staff experience	44%
Unfortunate previous experience	22%

Many of these responses are clearly related: Finance office reluctance is often related to a combination of environmental and liquidity risk concerns, which is often based on an unfortunate previous experience.

And the time-consuming and complicated nature of some real estate gift transactions wouldn't necessarily be problematic if appropriate staff experience were in place, or if consultants with appropriate skills were used.

Fortunately, experience has shown ways that these obstacles can be overcome.

Liquidity risk can be managed by a thorough due diligence process that includes an institution's independent assessment of the marketability of the property, by early and thorough title work and other inspections, and by welcoming opportunities (except in the case of a charitable remainder trust) to identify a buyer ready to repurchase the property.

In fact, some charities use the ultimate protection against liquidity risk: making the gift transaction contingent on a sales contract with a subsequent buyer, sometimes with the closings happening simultaneously.

Environmental liability risk can be managed and controlled with policies that require a professional Phase I environmental assessment, perhaps with the use of appropriate indemnification language. Some nonprofits report increased use of real estate environmental liability insurance, while others have elected to set up a subsidiary organization to hold title to real estate, or to partner with a community foundation or some other entity for purposes of holding title.

Note: There are enough approaches to managing and controlling liquidity risk and environmental liability risk that the likely existence of such risks, in and of themselves, should not deter the careful pursuit of real estate gifts.

An approach to dealing with finance office wariness that has proved successful in some instances is involvement of the finance office in discussions that result in detailed policies and procedures for real estate gifts. The aim of such policies and procedures should be, on the one hand, to clarify the due diligence procedures that will address liquidity and environmental risk concerns, while at the same time communicating to the outside world the charity's interest in discussing real estate gift possibilities. Finance office wariness can also be overcome by selective use of consultants with real estate experience to fill in the gaps in the development office and the finance office staffing patterns.

Marketing and Donor Motivation

As noted, the survey clearly established a relationship between marketing effort and real estate gift success. The survey went on to seek information on the effectiveness of particular marketing approaches. The approaches rated most effective in generating real estate gift inquiries were: Personal visits to prospects identified through research (64 percent); publicizing real estate gifts from prominent friends of the organization (54 percent); and case studies in publications, etc. (43 percent). Rated considerably less effective were targeted mailings based on prospect research and seminars for professional advisors.

The survey also sought information on the motivations behind real estate gifts.

What motivates real estate donors to give to your institution?

Availability of tax deductions	64%
Relief from owning/managing real estate	62%
Charitable intent	60%

It is interesting to note that respondents rated each of these motivations of roughly equal importance. Of particular significance is the belief that many real estate donors are motivated by a desire to be unburdened of the worries and responsibilities of owning and managing real estate.

Note: This suggests that real estate gift marketing efforts would benefit by addressing aging constituents who may be feeling the burdens of real estate ownership and would be interested in learning of alternatives.

Policies and Procedures

Slightly more than 70 percent of survey respondents reported having written policies and procedures regarding real estate gifts. Among these respondents, 85 percent reported policies that require an appraisal at the donor's expense, and 56 percent asked prospects to complete a detailed questionnaire providing extensive information about the proposed real estate gift asset.

Also, 59 percent reported using some form of gift-acceptance letter or memorandum of understanding to memorialize the structure and terms of the gift, and to lay out the responsibilities of the parties leading up to gift closing.

With regard to environmental assessments, 80 percent of respondents reported requiring a Phase I environmental assessment. Of these, 56 percent reported requiring the donor to cover the cost of such an assessment, while 24 percent reported that it was policy for the donee institution to cover such an expense.

Regarding title examinations, 76 percent of respondents reported requiring a title report of some sort, with 47 percent asking the donor prospect to pay for such title work, while 29 percent reported that the charity would pay for title work.

Note: Charities interested in appearing more welcoming to real estate gifts should consider offering to pay for environmental assessments and title work in the case of gift prospects that pass through preliminary screens of gift acceptability. After all, the purpose of such investigations is to protect the donee institution from exposure to risk. It is only in the case of a real estate appraisal that IRS regulations require the donor to pay.

Frequency of Use

The survey asked about the frequency of use of various types of real estate gifts.

With what frequency will your organization accept these types of real estate gifts:

Outright gift	85%
Bequest	75%
Charitable remainder trust	67%
Retained life estate	36%
Undivided/fractional interest	33%
Bargain sale	30%
Charitable gift annuity	19%
Charitable lead trust	15%
Retained life estate/CGA	9%

The relative popularity of outright gifts, bequests, and real estate-funded charitable remainder trusts is not a surprise.

It is a surprise, however, to realize how underutilized retained life estates and bargain- sales are. Both are structures that can fit particular donor life planning and tax circumstances very well, if only they were offered as options. And in both cases, proven approaches exist for managing environmental liability, liquidity risk, and other risks. For example, 9 percent of respondents reported entering into bargain sale arrangements only when they could simultaneously close on the purchase and the sale of the property.

Even less frequently used is a charitable gift annuity funded with real estate, even when the option exists to defer payments for several years to allow for liquidation of the property. This is despite the fact that some respondents reported that many prospects are attracted to the relative simplicity of a CGA compared to a CRT. Only 5 percent of respondents reported using the technique of making a CGA contingent on being able to close on the sale of the gift property at the time that the CGA is finalized.

The institutions that reported the greatest success in attracting real estate gifts are the institutions that reported use of the greatest variety of gift structures.

Note: It is clear that one way to increase the volume of an institution's real estate gift activity is to broaden the menu of gift structures offered, and to employ creative problem solving regarding issues such as liquidity and environmental liability.

Conclusions

From this survey of PGGNE members, combined with personal experience, it can be concluded that:

♦ More and more institutions are deciding to seek real estate gifts, and are finding ways to overcome internal obstacles that have often hindered such efforts.

♦ The institutions that are successful in increasing real estate gift activity are likely to be institutions that actively market their interest in a wide range of real estate gift types.

♦ One marketing approach that may be particularly effective is to emphasize the ability of gift structures to relieve aging property owners of the burden of property ownership and management, while fulfilling their charitable objectives and addressing their tax-planning priorities.

♦ There are proven ways to start a successful real estate gifts program, or to upgrade an existing one, by emphasizing marketing, training, and development of appropriate policies and procedures. Selective use of the growing number of consultants with expertise in the real estate gifts field can also be helpful in such efforts.

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Methodology:A survey instrument, developed in consultation with PGGNE's program committee, was electronically administered to 380 PGGNE members, using Zoomerang technology, with responses accepted between August 4 and August 31, 2005. The 73 responses, representing about a 20 percent response rate, closely followed PGGNE's membership composition: 63 percent educational institutions, 15 percent health care organizations, 5 percent religious institutions, 5 percent environmental organizations, 5 percent social service institutions, and 7 percent other.