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Drafting Real Estate Gift Acceptance Policies and Procedures

By Dennis Bidwell

I have found that for almost every institution it makes sense, before ramping up the marketing of real estate gifts, to review and amend gift acceptance policies and procedures to be sure they properly address what that institution does and does not want to pursue and accept as real estate gifts. The state of the art has advanced greatly in recent years, and it makes sense for gift acceptance policies to reflect this collective learning. Also, the process of conducting such a review can become an opportunity to educate key staff and board about the magnitude of the real estate gift opportunity, and can provide the mechanism for achieving buy-in of key players, including the CFO or the General Counsel, or wherever it is that institutional caution about real estate gifts has traditionally resided.

Such a review can often achieve a considerably stream-lined approach to reviewing and deciding about real estate gifts. Many institutions discover that they have unnecessarily burdened the real estate gift review process by having too many hands in the pie. Often, the process can be simplified with absolutely no sacrifice of the quality of the review.

Revising procedures for handling real estate gifts can also provide an opportunity to become more “donor-friendly” throughout the process. Often, an institution’s caution about real estate gifts is reflected in rather off-putting procedures, e.g.: when a potential donor inquiring about possibly making a real estate gift is asked, at the outset, to complete a 10-page questionnaire and supply many pages of documents. If an institution is truly interested in accepting real estate gifts, then its approach to dealing with prospective donors needs to be friendly and oriented to problem-solving.

More and more organizations are adopting a gift minimum concerning real estate gifts. Increasingly, the yardstick being used is not simply the estimated value of the real estate asset in question but is, instead, the estimated likely net value to the organization, in today’s dollars, of the gift when all is said and done. For example, a vacation home may appraise at $200,000, but if it is proposed as the funding asset for a 6% Charitable Remainder Unitrust for 63 year old beneficiaries, then the true likely value of the gift – taking into account various expenses along the way, making actuarial assumptions, and bringing everything back to present dollars – might be more like $75,000. It certainly isn’t $200,000. I have found that it is good rigor for an institution to do this preliminary analysis early on, in part to temper expectations, and in part to help decide whether to pursue the gift.

And finally, we know that the most successful real estate gift programs offer a very full menu of structuring options to their donors, so that they can use the whole tool box in crafting a solution to fit the donor’s particular circumstances. Therefore, a review of gift acceptance policies and procedures becomes an opportunity to carefully broaden the menu of offerings, while thinking through particular policies for each structure. In other words, the most successful programs include charitable gift annuities and bargain sales and fractional interest gifts on their menu, as well as bequests, outright gifts and charitable remainder trusts.

I have found that it is important, before drafting or redrafting policy documents, to convene a meeting of the institution's key players involved in real estate gift decisions. Such a meeting can provide, with careful facilitation, an opportunity to discuss all the issues above and form the basis, with at least preliminary buy-in, for drafting policy and procedure documents.