Is It Time to Revise Your Gift Acceptance Policies?

By Dennis Bidwell

In my experience there is often someone or some office in a non-profit organization—perhaps the CFO, maybe the general counsel's office—that is exceedingly cautious about accepting real estate gifts. Often this is due to a bad experience from 20 years ago, such as the now legendary story of the gift of the former gas station owned by three warring siblings.

My response is that those of us who have worked with real estate gifts for decades—and there are many of us at this point—have figured out a pretty good way to open the doors wide to potential real estate gifts, while at the same time putting in place rigorous—but donor friendly—screening and due diligence procedures. The result is that only the promising and generally non-problematic gifts make it through the process, while the bad gift potentials get discarded early on, with a minimum of donor disappointment.

This approach starts with clear gift acceptance policies and procedures that adopt best practices for screening and receiving real estate gifts in various forms. And then it proceeds to a two-stage screening and due diligence process.

Gift acceptance policies

State of the art real estate gift acceptance policies these days specify whether, and under what conditions, various real estate gift types are acceptable (outright, bargain sale, charitable gift annuity, charitable remainder trust, retained life estate, fractional interest) and what gift minimums apply in each case. (With the understanding that allowance always need be made for exceptions.) These policies also tend to clarify the "who does what" within the institution—screening, due diligence coordination, gift approval, handling closings, coordinating property disposition, etc. Better to have all of this thought through in advance than to be left scrambling while an impatient donor prospect feels put off for weeks and months on end.

A two-stage screening and due diligence process

The aim of the first stage of a screening and due diligence process is to gather essential information about the property, the donor prospect, and the proposed gift structure as rapidly as possible in order to provide the prospect with a prompt indication of whether or not your institution wants to pursue the gift. Providing such an answer quickly not only avoids wasting a great deal of time and effort on the part of the donor prospect, but also assures that your institution's staff is spending its time on the truly promising gifts.

For potential gifts that pass such an initial screen, a period of due diligence then follows. It is generally at this point—and not sooner—that the donor prospect is asked to provide much more extensive information—sometimes the right questionnaire at this stage of the process is helpful—and documentation about their property and their financial situation.

The key elements in a due diligence process designed to identify, manage, and minimize risks generally consist of the following:

1. title investigation with the assistance of a local real estate attorney;

2. a Phase I environmental assessment, with follow-up as needed;

3. an independent assessment of local market conditions and the property's market value (usually stopping short of a full-blown qualified appraisal);

4. a building inspection (if appropriate), along with a personal visit by a representative of the institution.

Moreover, non-profits are recognizing that in order to be in control of the due diligence process, as well as to be more "donor friendly," it makes good business sense to assume the costs of these investigations, rather than ask the donor to do so.

I am convinced that the key to increasing the quantity and quality of real estate gifts is, first, to broadcast an institution's interest in accepting real estate gifts in various ways, and then to work the prospective donor in a two-phase process that initially screens out/in in a donor-friendly way, saving the more burdensome parts—providing documents, completing questionnaires, allowing people on the property for inspections—until a later stage when it's fairly clear that this indeed a promising gift.