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Real Estate Gifts In Challenging Times

Development offices and non-profit organizations of all sizes and shapes are taking a closer look at real estate gifts and the transforming impact these gifts can have on their organization. The largely untapped potential of charitable real estate gifts is becoming even more critical in these challenging economic times. In this article (published originally on the University of Denver's PGDC) Dennis Bidwell gives insight on why organizations should take a closer look at real estate gifts and how they can position themselves for success in attracting them.

By DENNIS BIDWELL

Increasing attention is being paid to the potential of charitable real estate gifts as the effects of the deteriorating economy ripple through development offices of non-profit organizations of all sizes and shapes, while impacting the practices of estate attorneys, CPAs, financial advisor and realtors. This shift in attention is due to several factors:

- With growing liquidity concerns in most households, cash gifts – current or deferred – are becoming harder and harder to come by. This is causing development professionals to turn more of their attention to *the non-cash assets of their donors and prospects, particularly real estate assets.* It is also causing professional advisors to suggest that their cash-strapped clients *consider using some of their real estate wealth to fulfill their charitable objectives*.
- Real estate assets comprise over 35% of the assets of U.S. households. Yet only about 3% of charitable giving in recent years has come from real estate gifts. Development offices and professional advisors are increasingly recognizing the need to *go where the wealth is – the largely untapped potential of real estate* – in meeting philanthropic objectives.
- More attention is being paid to the experience of those non-profits that have consistently attracted large numbers of substantial real estate gifts. A survey conducted by the National Committee on Planned Giving (now the Partnership for Philanthropic Planning), published in the Fall 2008 issue of *The Journal of Gift Planning*, reported that *13% of institutions responding received over 10% of their total contributions as real estate gifts over the previous three years, as measured in dollars*.
- At the same time, more and more professional advisor networks are being called upon to *educate their members about the relevance of real estate gifts to their clients' planning needs. Such networks are offering more and more workshops on charitable remainder trusts and charitable gift annuities funded with real estate, property gifts subject to retained life estates, fractional interest gifts of property and bargain sales, and charitable lead trusts funded with real estate.*
- The collective experience of institutions that have enjoyed success in pursuit of real estate gifts has led to *an increasingly accepted body of "best practices"* that permit the opening of the doors to real estate gifts *while carefully managing and minimizing the potential risks of real estate.*

- These emerging best practices are causing more and more gift planners to *structure gift plans tailored to meet the estate planning, retirement income and lifestyle needs of aging owners of real estate.*
- Institutions at one stage or another of *campaigns* – planning phase, quiet phase, or those that have gone public and are concerned about hitting their targets – are increasingly turning their attention to the potential of real estate gifts. Indeed, there is evidence that the methodology for many campaign planning/feasibility studies in the future will devote more explicit attention to the role of real estate gifts in campaigns.
- *An increase in real estate gift activity* during these challenging economic times is being reported by non-profits that market their interest in real estate gifts. This is due in part to the number of aging owners of vacation and rental properties who would rather donate their property to a favorite charity than navigate the uncertain waters of marketing their property in volatile real estate markets.

These factors have combined to cause more and more non-profits – colleges and universities, private secondary schools, community foundations, health organizations, environmental groups and land trusts, social service and affordable housing groups – to transition from organizations that "accidentally" receive the occasional real estate gift (often stumbling through the process of analyzing, structuring and closing the gift) to organizations that thoughtfully and intentionally seek out quality real estate gifts. Such organizations employ procedures and techniques designed to manage the various types of risk (environmental, liquidity, holding cost) that can be associated with real estate gifts.

At the same time, lawyers, CPAs, philanthropic advisors, financial advisors and realtors are looking to provide an expanded menu of planning options for their clients, including the wide range of charitable gift options involving real estate.
A review of the experience of the non-profits that accept large numbers of real estate gifts of various types reveals important trends.

Getting the key players on the same page with policies and procedures

Successful real estate gift programs tend to have clear gift acceptance policies and procedures governing real estate. These policies assure that everyone in the organization is on the same page regarding the types of properties (residential, commercial, farms and ranches, undeveloped land, etc.) that will be accepted and the gift structures (CRTs, CGAs, retained life estates, bargain sales, etc.) that can be employed. These policies also tend to establish minimum gift amounts that take into account, one way or another, the often time-consuming and costly process of structuring, analyzing, and closing gifts of real estate. Also, it is important to be clear about which parties in the organization (planned giving staff, treasurer's office, general counsel, board development committee), as well as which outside sources of expertise, are involved in which aspects of the real estate gift review and approval process.

It is often very helpful to gather in one place all of an institution's key players with responsibility for real estate gifts in order to refine these gift acceptance policies and procedures. Such a working session can provide an opportunity for all to express their worries and reservations – which exist in some form in almost every institution – and then to share information and devise due diligence and approval procedures that address those concerns. What emerges is often not just a set of clear policies and procedures, but also an enhanced appreciation for the potential of real estate gifts, as well as streamlined relationships for facilitating such gifts.

Other key elements of such donor-friendly policies and procedures include the following.

An initial screening process. Increasingly, non-profits are adopting more "user-friendly" postures with regard to potential real estate gifts. One way this new attitude comes across is by adopting a two-stage process for reviewing such gifts.

The aim of the first "screening" stage 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 the 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 the institution's staff is spending its time on the truly promising gifts.

Due diligence. For potential gifts that pass such an initial screen, a period of due diligence then follows. It is generally at this point that the donor prospect is asked to provide much more extensive information 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); and 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.

Gift acceptance letter. Once the committee charged with assessing potential real estate gifts has reviewed the various documents generated in the due diligence process and has agreed to accept the gift, it is generally good practice to communicate this decision to the donor in a detailed letter. Such a letter would include any conditions placed on the gift and any proposed alternative gift structures, as well as a "roadmap" of sorts detailing who needs to do what along the way towards a closing of the gift.

Property disposition procedures. Since the vast majority of real estate gifts are accepted with the intent of liquidating the property as quickly as possible (as opposed to gifts accepted for the ongoing use of the non-profit in furtherance of its mission), it usually makes sense to retain a local real estate broker to handle the listing and sale of the property.

Steps Toward Attracting The Right Real Estate Gifts

Staff and trustee training. Once there is agreement within the institution on the types of real estate gifts that will be accepted, as well as the process for analyzing and accepting such gifts, many organizations find it useful to conduct real estate gift training sessions for development staff and board members. These sessions should include everyone who may enter into conversation with a donor prospect about a gift of real estate. The importance of briefing board members on real estate gifts cannot be overstated. After all, it is highly likely that they will come into contact with donor prospects (including fellow board members) who might mention, for example, plans to sell the family's summer home, thus making them candidates for follow-up gift conversations.

Marketing. When there is awareness at the staff and board level of the "profile" of the likely real estate donor, as well as concurrence on the types of real estate gifts to be accepted, organizations need to get the word out that they are interested in discussing real estate gift possibilities. Case studies in newsletters and mailings, web site illustrations, special mailings, workshops for professional advisors, annual report "advertising" plant the seed that property owners can creatively dispose of surplus real estate holdings in ways that further the mission of the organization.

Research and personal visits. Surveys have shown that the single most effective way to stimulate real estate gifts for many organizations is to conduct donor research aimed at identifying prospects who own multiple pieces of real estate and are 65 or older, and then to arrange personal visits with such prospects during which their plans for the future of their real estate holdings are discussed. It may take some practice and training before gift officers at your organization develop a comfort level in initiating such conversations, but this is clearly a highly effective way to develop real estate gifts.

Seeking Assistance

Though the process of attracting, analyzing, structuring and closing real estate gifts is well within the capacity of many non-profit development operations, there are a variety of sources of assistance for non-profits seeking assistance. Some community foundations have established partner programs whereby they will work with a non-profit organization to analyze a potential real estate gift, help structure the gift, perhaps taking title to the property themselves and then liquidating the real estate, perhaps issuing a gift annuity or trusteeing a charitable remainder trust. All of this is typically undertaken with the understanding that a portion of the net gift proceeds will stay at the community foundation either as a donor advised fund or as endowment for the partner non-profit organization.

Some national and regional donor advised funds have been set up to evaluate and receive gifted property, liquidate it, and distribute proceeds to charities in accordance with established policies. Also, several real estate gift planning consultants operate around the country to help non-profits develop their capacity to attract and process real estate gifts, as well as to assist with specific gift transactions.

Conclusion

Real estate is the single largest category of wealth for many families, and is becoming increasingly interesting to development professionals grappling with the challenges of a cash-strained fundraising environment. Real estate gift structures are also becoming more and more important to attorneys, CPAs, financial advisors and realtors looking to provide a full range of creative planning options to their clients. While gifts of real estate are often more complex and risky than gifts of cash or publicly-traded securities, proven procedures have been developed to help manage this complexity and risk. More and more non-profits are re-examining the risk and reward relationship of real estate gifts and are determining now is the time to start tapping in to the enormous real estate wealth transfer that surrounds us. And more and more professional advisors are distinguishing themselves from their competition by becoming conversant on a range of real estate gift options, and knowledgeable of the non-profit organizations with the capacity to handle such gifts.

Dennis Bidwell is principal of Bidwell Advisors, a Northampton, Massachusetts real estate consulting firm providing services nationally to non-profit organizations and to private property owners. The firm specializes in real estate gift planning services for colleges and universities, community foundations and other non-profits seeking to increase their level of real estate gift activity. Prior to forming Bidwell Advisors in 2001, Bidwell served as national real estate director for American Farmland Trust. Previous positions include: vice president of Leggat McCall Advisors, a Boston-based real estate consulting and appraisal firm; development officer for the National Trust for Historic Preservation; program officer for Associated Grantmakers of Massachusetts. A graduate of Dartmouth College, Dennis earned his MBA from Boston University and his M.Ed from Harvard University. Bidwell writes and speaks frequently on real estate philanthropy and land conservation. Dennis serves on the Advisory Board of Bay Path College's Graduate Programs in Nonprofit Management and Philanthropy. Mr. Bidwell can be contacted at dbidwell@bidwelladvisors.com or 413-584-2732.