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Real Estate Gifts

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Real Estate Gifts Gifts of real estate can be rewarding and challenging. Rewarding because they involve significant assets, sometimes resulting in five, six or seven figure gifts. Challenging because they involve extensive background efforts and complex transfer procedures. Once offered there are several steps the PGO must complete to achieve successful results.

Anyone who has ever purchased a house is familiar with the mountain of paperwork involved. In addition to the paperwork the PGO must process the gift internally while developing a strategy which meets donor goals.

Policies Drive Acceptance Charities should have real estate gift acceptance policies. Do not develop your policy on the fly when the first gift is offered. A good policy statement should include sufficient detail, state what professionals will be involved and the steps they will take to review, evaluate and accept the gift .

Basic Real Estate Information The charity typically will be offered land, residential property, vacation property, apartment buildings, office buildings, farms, or a condominium.

Once offered it is important to have a full description of the property, its ownership, value, liabilities, encumbrances and tax basis. A real estate broker property listing form is a good guide to obtain basic information, such as site description, property characteristics and operating expenses.

In the next step determine how is the property owned. Fee simple, tenancy in common, joint tenancy, community property, revocable living trust, in a partnership, thru a Limited Liability Corporation (LLC) or a C or S corporation are some of the common ways individuals may own all or a portion of property. The ownership of the property will drive the acceptance strategy to achieve donor objectives.

What are the property liabilities? Does the property have a mortgage or other encumbrances? Are there any potential environmental hazards? Remember a mortgage will reduce the donor's charitable deduction.

What are the carrying costs for insurance, taxes, heat, electricity, etc. What are the commission

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and transfer fees for selling the property? How long will it take to sell the property and what marketing expenses are involved? Will the sale price have to be reduced to sell the property? Carrying costs, transaction fees and price reductions will effect the eventual charitable benefit. Remember reducing the sale price may effect the donor's charitable deduction.

Property Values Determining property values is more art than science even when completed by an experienced appraiser. It is prudent to have at least two and sometimes three appraisals. The donor must obtain and pay for an appraisal to substantiate their contribution. A charity should obtain its own independent appraisal. The charity and the donor should share the appraisal results. If the appraisals are too far apart the gift process may not proceed. The appraisal process for residential real estate will be significantly different than for an income producing apartment building.

Appraisals may cost the charity several hundred or several thousand dollars depending on the nature of the property and the appraisal techniques employed. Better to expend funds at this stage than to have continuing expenses from a property gift gone bad.

The IRS requires the appraisal to be completed no earlier than 60 days prior to the transfer, and no later than the when the donor files their federal income tax return. Remember a charity is a disqualified party and cannot complete the appraisal used by the donor to substantiate their deduction.

Techniques for Real Estate Transfers Real estate gifts must meet both donor's and charity objectives. Both outright gift and/or split interest life income strategies may be employed. If real estate represents a significant portion of the donor's assets a combination of strategies should be considered. A sample of gift strategies available in addition to outright gifts would be a bargain sale, an installment sale, a life estate reserved, gift annuities both immediate and deferred, gift annuity for the remainder interest in a home or farm, a FLIP-Charitable Remainder Unitrust or a charitable lead trust.

Caution When transferring property into a split interest arrangement it is important there be no preexisting sales agreement since the IRS will impute the gain to the donor and impose a capital gains tax on the transaction.