

Gifts That Went Wrong

(or Mistakes I Almost Made)

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Our Learning Plan



Real examples with fact patterns to help identify cues for gifts that are prone to going wrong



Resolutions



Advice

Policy Strategies

Communication Strategies

Let's get
vulnerable!



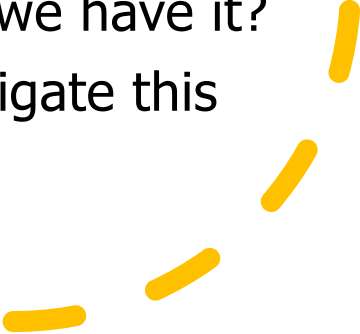
Gift of Diamond Ring...

Fact Pattern:

- An alumnus introduced their business partner to the organization
- This couple wants to ultimately impact breast cancer research at the university medical center in memory of lost family members using an inherited ring
 - Ring is over 5 carats and has recently been valued for insurance at \$325,000
 - Donor wants to maximize their tax deduction and their impact
- Gift officers want to honor this intent and build a deeper relationship with couple

...But
Where's the
Related
Use?

Potential Issues that Need to Be Considered

- A ring has no related use to breast cancer research
 - The current appraisal won't meet the IRS guidelines
 - How do we know the ring we receive is the one described in the appraisal?
 - How do we transport/accept this ring safely?
 - How do we utilize the ring once we have it?
 - Do we have the expertise to navigate this on our own?
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Let's see this ring (and the art)!






The Sinking Sailboat



Fact Pattern:

- Late 2012 gift officer for a California religious organization agrees to accept a sailboat from a congregation member and personal friend
 - Donor intended proceeds of sailboat sale to benefit church
 - Organization was new to accepting gifts beyond bequests
 - Due to friendship, there was no visual inspection of boat
 - In 2013 a new gift officer assumes the role and sailboat has yet to be sold
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The Sunk Sailboat

Potential Issues that Need to Be Considered

- Due-diligence before accepting a gift:
 - Expertise in non-cash gifts
 - True donor intent?
- Internal checks-and- balances:
 - Gift acceptance policy
 - Finance committee review
 - OGC review
 - The current appraisal won't meet the IRS guidelines
- Does a sailboat have related use to a religious organization?
- How is the boat handled once accepted?
- Sale and appraisal of the boat?

The Sunk Sailboat!



TPP Strategies



Gift Acceptance Policies Related to TPP

Have clarity about what you will and won't consider as a gift

Have clarity about who can approve the acceptance of a gift

Ensure gift agreements include the org's ability to divest of the asset if it's no longer needed/relevant for original purpose; include alternative use options



Leverage Advisors to Augment Org Expertise

We often talk about Donor's Advisors, but your org should also have a team of trusted advisors you can go to for insight and expertise



Be Communicative with Donors

Be candid and realistic with donors about potential issues, steps you're taking for due diligence, and what an appropriate timeline should be

CRATs: A Cautionary Tale



In late 2006, the president of the university has a neighbor at their Palm Springs vacation home who is interested in converting this house into a stream of income



Donors are fixed on specific (and high) income amount




University has a policy to not fund CGAs with real property, so land on CRAT as gift vehicle

Why I Distrust CRATs to This Day

- The Donors had little interest in our programs, just in avoiding capital gains and creating income stream
- To achieve their income goals, the CRAT had to be set at 10% payout
- The conversation started in 2006, gift closed in 2007... not a great time for real estate price stability
- Recession lasted until 2012, so also not a great time for stock returns
- Spoke with Donors about potentially waving rights to future income in exchange for an additional charitable deduction to salvage some sort of gift for the university, but that was a no-go

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CRAT Strategies

- Gift policies should outline acceptable payout rates
 - Gift planners should be cautious about the types of donors they'll accept life-income gifts from
 - We have a duty to our organizations to act in organizational best interests
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Real Estate to CGA Flip (or Flop)

Fact Pattern:

Longtime donor contacted the organization to gift a partial interest (50%) of condo with a desire for an income-stream

Donor intent to provide gift to the organization after life but needs the money and income to secure retirement

Org agrees to a CGA with pre-established rate and discount

- February 2017 gift conversation begins
 - May deed transfer
 - October property listed for sale; December market decline
 - February 2018 property sells
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Real Estate to CGA Flip (or Flop)

Issue Stale market

Spotter: Underfunded CGA

Donor intended gift to organization was severely reduced

Organization was in an unfavorable position with longtime supporter and higher

Inexperienced gift officer in this type of gift; utilization of advisors



Real Estate Strategies



Ensure donors understand the length and involvement of RE gifts

Qualified appraisal for partial gifts
Mortgage payoff or assumption
Realtor choice



Income gifts funded through RE

Established rate or flip
Maintenance costs during sale
Closing costs



Separate gift agreement for gift amount/income stream

Planning Philosophies that Help Gifts Go Right

Slow down!

Use the policies and processes to help you do your due diligence

Build the relationship first

If you're accepting more than bequests, ensure you have the following items in place:

- Gift acceptance policies that address a range of gift vehicles
- A gift acceptance committee to vet gifts for acceptance
- A team of advisors – internal and external – to provide insight and guidance on less frequent gifts

Questions?

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