



community foundation
St. Clair County

Policy for the Acceptance of Gifts of Real Estate (modification 5/26/04)

This policy is intended to clarify and enhance the Foundation's current gift acceptance policy as it relates specifically to gifts of real estate.

I. Authority to Negotiate

- a. The President of the Foundation shall have the authority to handle inquiries regarding potential gifts of real estate. This authority shall include initial negotiations with donors, assembling documentation, retaining appraisers, surveyors, realtors and/or other technical consultants.
- b. The President shall keep the Foundation's Executive Committee apprised of any ongoing discussions over the potential acceptance of real estate.

II. Evaluation of Potential Gifts

- a. Property and Report Form: Upon initial inquiry, potential donors will be asked to provide all necessary information to the Foundation with appropriate maps and documentation so that the proposed gift may be fully evaluated.
- b. Liens, Mortgages and Encumbrances: Property which is subject to liens, unpaid mortgages, deeds of trust, judgment liens, unpaid taxes or assessment, mechanics' liens or other encumbrances will be accepted only in exceptional circumstances and upon advice from the Foundation's legal counsel. If accepted, property which is subject to encumbrances will be evaluated as a "bargain sale" which is an arrangement whereby a donor offers property to the Foundation for an amount less than its current fair market value.
- c. Field Evaluation: Following an offer of a gift of real estate, a member of the Foundation staff or a representative will visit the property. A representative may be a local realtor or other person as appropriate. The purpose of the visit will be to determine the nature and type of the property and to identify any potential problems not evident from initially supplied information that would hinder or prevent the Foundation's sale of the property.
- d. Market Evaluation: Whenever practical, arrangements will be made to have a realtor analyze the property to evaluate the existence of a market for such property.
- e. Expense Budget: The Foundation staff will prepare a budget outlining all of the projected expenses associated with the acceptance of all proposed real estate gifts.

III. Responsibilities of the Donor

- a. The donor will be responsible for obtaining a qualified appraisal complying with IRS regulations for the purposes of establishing the value of the gift for federal income and gift tax purposes.
- b. The donor must obtain at their expense, an environmental audit satisfactory to the Foundation. No property will be accepted if there is a likelihood of any liability which could attach to the Foundation as a result of its taking title to the property.
- c. The donor must furnish the Foundation with evidence of title which shows that title to the property is vested in the donor, unencumbered except for current real estate taxes and assessments, which would not create any economic burden on the Foundation, and that there are no easements or restrictions of record which would adversely affect the marketability of the property
- d. It is the donor's responsibility to prepare the deed and other instruments which are necessary to transfer the property to the Foundation. All proposed transfer instruments must be reviewed and approved by the Foundation's legal counsel prior to acceptance by the Foundation.
- e. Prior to acceptance of the property, the Foundation and the donor must agree in writing on arrangements for paying expenses associated with the property, such as commissions, real estate taxes and assessments, utilities, insurance, and maintenance costs. Generally, the Foundation will not advance funds for the payment of such expenses.
- f. Donors will be encouraged to discuss contemplated bequests of real estate before finalizing their wills. Property that is bequeathed to the Foundation will be evaluated in accordance with this policy and procedures like all other gifts of real estate.

IV. Procedure for Accepting Real Estate

- a. After the requirements of this policy have been satisfied, the President of the Foundation shall forward all such relevant material to the Foundation's Executive Committee for a decision on accepting or rejecting the proposed gift. Decisions on accepting gifts with a value greater than \$500,000 will require the majority approval of the Foundation's Board of Trustees.
- b. Decisions on gifts with values less than \$500,000 may be made by a majority vote of the Executive Committee.
- c. Prior to or upon transfer of title to the Foundation, the donor and the Foundation will sign an agreement (approved by legal counsel) stating the terms of the gift, which will specify that there are no restrictions on the Foundation's right to use or convey the property.
- d. The Foundation will not seek exemption from real estate taxes for real estate unless such real estate is to be used exclusively by the Foundation for the Foundation's charitable purpose.

V. Marketing and Sale of Real Estate

- a. After accepting a real estate gift the Foundation's Executive Committee may sell the property at their discretion. Should the Executive Committee wish to hold onto the property, they will be required to obtain the approval of a majority of the Trustees then in office.

- b. As a general practice the Foundation will sell all property received as a gift, unless the gift compliments or supports a related Foundation initiative such as Housing or Downtown Development. In such cases if the value of the property is less than \$500,000 the Foundation's Executive Committee shall have the authority to hold or sell the property.
- c. The sell or hold decision for gifts with values exceeding \$500,000 will require the approval of a majority of the Trustees then in office.
- d. In those instances where the Executive Committee or the Trustees vote to sell the property, it is anticipated that the sale price will equal or exceed the appraised value of the property. However, the terms of each individual sale will take into account current market conditions, availability of financing and other factors. Any offer that is below 70% of the appraised value will require the approval of the Foundation's Board of Trustees. All other offers may be accepted by the Foundation's Executive Committee.

VI. What the Foundation will not do

- a. Except in extraordinary circumstances, the Foundation will not pay for legal assistance, appraisals or other services on behalf of the donor.
- b. The Foundation will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction.

VII. Checklist

- a. Exact legal name of donor and federal identification number
- b. Description of property (copy of deed)
- c. Description of any buildings or other structures located on the land
- d. Boundary survey of property with location of all structures, easements, and encumbrances appearing on the face of the survey
- e. Information regarding existing zoning status
- f. Information on all ingress/egress for the property
- g. Description of prior use of the property
- h. Name and address of all tenants, lessees or occupants of the property, together with a copy of the lease, or if there is no written lease, a statement of the terms under which the occupant possesses the property.
- i. Description of use of surrounding property, with specific disclosure of any storage tanks or potential environmental factors affecting the property
- j. Phase I environmental report on the property, including environmental report on any structures located on the property
- k. Evidence of title, such as title examination and report, title insurance commitment, or schedule describing any liens, encumbrances, or title matters affecting the property
- l. Copy of appraisal showing fair market value of the property current within sixty days
- m. Disclosure of amount of existing real estate taxes, insurance premiums, and assessments attributable to the property
- n. Discussion with donor regarding any special arrangements for donor's fund or other sources to address ongoing expenses for taxes, insurance, assessments, maintenance, grass cutting, security, utilities and similar items