

CLOSING A REAL ESTATE-FUNDED LIFE INCOME GIFT: EASIER SAID THAN DONE!

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CASE STUDY OVERVIEW

- Introduction
- Donor Profiles
 - Personal Stats
 - Assets and Philanthropy
 - Donors Goals
- Issue Spotting Discussion (1)
- Stewardship & Cultivation Phase
- Gifts of Real Estate Considerations
- Charitable Gift Types
- Issue Spotting Discussion (2)
- Negotiation Phase
- Gift Processing Phase
- Post-Gift Closing Phase
- Conclusion

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DONOR: MR. HENRY SMITH

- 81 years old
- Compromised Health, but presents otherwise
- Former Film & Television Director and Producer
- 2nd Marriage, Never Discusses Children from 1st marriage
- Has bought, managed and sold many properties; confident in his knowledge regarding with real estate matters
- Currently owns rental property, Maintains Office in his Primary Rental Property and Conducts Repairs
- Extremely Loyal to his Tenants and "True" Friends
- Would prefer to live on the CA Central Coast or the surrounding hills.
- Demands Respect and Values Acknowledgment of his Success despite his hard scrabbled upbringing



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DONOR: MRS. CINDY SMITH

- 65 years old
- Born and raised in the U.K.; Harvard Graduate
- Former Museum Curator
- Confident/Thorough Researcher
- Loves Finding and Dining at Great Restaurants
- Actively Involved with Lifestyle and Business Decisions
- Values Traditional Marital Roles
- In Good Health



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MR. & MRS. SMITH'S ASSETS AND PHILANTHROPY

Assets

- Primary Residence
- Stock Portfolio
- Partial Interest in a Central Valley Ranch
- Several Rental Properties (2 with outstanding mortgages)
- Art Collection

Philanthropy

- Modest Annual Giving
- In addition to providing for friends, they designated 15 charities as beneficiaries of their trust estate
- Respectful stewardship is critically important for the relationship

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MR. AND MRS. SMITH'S GOALS

- Stated Goals
 - Fixed stream of income on monthly basis, which was independent of market performance and would serve to keep Mrs. Smith in the lifestyle to which she was accustomed after Mr. Smith's death.
 - Relieve Mr. Smith of management responsibilities, thus enabling the Smiths to spend more time together, whether at home or traveling.
 - Generate a significant income tax charitable deduction
- Unstated Goals
 - . Need to Demonstrate One's Worth and Value

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ISSUE SPOTTING DISCUSSION (1)

- What issues, if any, do you find relevant in Mr. Smith's profile?
- What issues, if any, do you find relevant in Mrs. Smith's profile?
- What issues, if any, do you find relevant to the Smiths' Assets or Goals?

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STEWARDSHIP & CULTIVATION PHASES

Interested Parties

- Mr. and Mrs. Smith
- Donor Relations Manager
- Gift Planning Officer
- Other Charities

Pertinent Issues

- Demonstrate Appreciation for Annual Support and Legacy Society membership
- Estate Planning - Successor Trustee Consideration
 - Individuals
 - Professional Fiduciaries
 - Corporate Trustees
- Determination of Meaningful Cultivation/Stewardship Activities
 - Provide opportunity for Mr. Smith to invite friends
- Philanthropic Decision/Charitable Intent

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GIFTS OF REAL ESTATE - CONSIDERATIONS (DONORS' PERSPECTIVE)

- Donors create Life-Income Gifts with Real Estate for both personal and financial reasons:
 - Personal
 - No longer wishes to manage the property
 - A great buyer has expressed interest in the property
 - Personal reasons requires a move
 - Financial
 - Avoid capital gains tax liability
 - Generate a charitable income tax deduction
 - Create a stream of income
 - Don't anticipate that the property will appreciate (slump in housing prices)

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GIFTS OF REAL ESTATE CONSIDERATIONS (CHARITY'S PERSPECTIVE)

- Value/Importance of RE Gifts
- Potential Risks (Accepting the asset; Managing the asset; Disposing of the Asset)
- Donative Intent is Optimal
- Effective Due Diligence (Discovery and Qualification)
 - Importance of Gift Acceptance Policy (Should help screen out bad prospects, maintain good donor/charity experiences)
 - Condition of title of and property, environmental liability, lack of liquidity, lack of marketability, reputational risks,
 - Unique Issues related to Residential Rental Property
 - How is property currently managed
 - Tenancy/Vacancy
 - Amounts of gross rents, expenses, net rents
 - Cash flow after gift

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GIFT VEHICLES

- CRUTs, CRATs and CGAs are Life Income Gift Vehicles that ideal for use by those wishing to dispose of highly appreciated, low yielding property free of capital gains, such as real estate, that will produce higher amounts of cash flow and appreciation. A double tax leverage can be accomplished by avoiding recognition of capital gain and creating an immediate income tax deduction.
- Selecting which of the available gift vehicles is best for any particular donor depends upon the donor's goals and the features and benefits of the respective charitable vehicle.
- For life income gifts of real estate, the Flip Unitrust is the most used gift type.

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FLIP UNITRUST

• Net Income Unitrust  Standard Unitrust

Trust "flips" January 1 following property sale

Donors

- Contributes property to the trust
- Able to make additional contributions

Charity Trustee

- Distributes net income (if any) to the beneficiary
- Markets and sells the property
- Invests trust assets following the sale

Charity Trustee

- Invests trust assets
- Distributes fixed percentage of the annual market value of the beneficiary

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CHARITABLE REMAINDER ANNUITY TRUST - CRAT

- CRAT Considerations

Donors

- Contributes property to the trust
- Unable to make additional contributions

Charity Trustee

- Distributes annuity amount stated as a fixed percentage of the initial FMV (a fixed sum) the beneficiary
- Markets and sells the property
- Invests trust assets following the sale

*Potential Risk

- "Unmarketable Asset" could cause the trustee to be unable to fulfill the trust's payout requirements.

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CHARITABLE GIFT ANNUITY - CGA

- CGA Considerations

Donors

- Contributes property to the charity in exchange for charity's immediate promise to pay guaranteed lifetime income.
- Simpler gift
- Timing of distributions is not dependent upon sale of property
- Not depended upon investment performance of donated assets.
- Fixed Income
- Simpler Gift to Establish

Charity

- Distributes fixed annual amount through annuity contract
- amount stated as a fixed percentage of the initial FMV (a fixed sum) the beneficiary
- Markets and sells the property
- Invests trust assets following the sale

*Potential Risks

- Charity must earmark funds for annuity payments and state gift annuity reserves.
- Charity must obtain donor's agreement to discounting the annuity rate to reflect the market risk and selling costs.
- Accurate Valuation
- Market Assessment
- In CA, CGAs are regulated by the Insurance Commissioner

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NEGOTIATION PHASE

Interested Parties

- Mr. and Mrs. Smith
- Donor Relations Manager
- Other Charities
- Real Estate Manager

Pertinent Issues

- CRAT vs. CRUT vs. CGA
 - CRAT Decision
 - Selecting Other Charities
 - CGA Decision
 - Payout Amount
- Managing Relationships - Internally and Externally!

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ISSUE SPOTTING DISCUSSION (2)

- What additional issues, if any, do you find relevant related to the gift negotiation process?
- What different steps might I have taken to not lose the gift opportunity?
- How would you have addressed the concerns of the donor, the Real Estate Manager and the CA State Director?
- If you've had the experience of managing interactions between donors and internal staff, what steps did you take to resolve the matter effectively while still maintaining good relationships with all parties?

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GIFT PROCESSING PHASE

Interested Parties

- Mr. and Mrs. Smith
 - Organization's Real Estate Manager
 - Organization's CA State Director
 - Organization's National Senior Leadership
 - Property Management Company
 - Appraiser
 - Real Estate Brokers
- Bank Officers
 - CPA
 - Environmental Database Review Firm
 - Title Officer
 - Escrow Officer

- Pertinent Issues
- Gift Acceptance Policy
- Donors' relationships with Tenants
- Outstanding mortgage
- Washer/Dryer Income
- Escrow Doc Delivery Delay/Inaccurate Title Report
- Last minute "Close by Christmas" Requirement
- "Right to Revoke" Language

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POST-GIFT CLOSING PHASE

Interested Parties

- Mr. and Mrs. Smith
- Organization's Marketing & Communications Team
- Organization's Real Estate Disposition Manager
- Mr. Smith's Close Friend - Potential Buyer
- Organization's President & CEO
- Organization's CA State Director

Pertinent Issues

- Donor's Insistence that Organization Sell to His Friend
- Dissatisfaction with MarCom's Interview Process
 - Article Language
 - Proposed Photo
- Subsequent Solicitation for Outright Gift

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CHALLENGING, BUT REWARDING

Mr. and Mrs. Smith



Created guaranteed stream of income



Donors received Peace-of-Mind



Derived lifestyle benefits being relieved of property management responsibilities



Experienced pride by supporting the organization in a significant manner

The Organization

- Able to acknowledge the Smiths' partnership in a meaningful manner
- Provided the donors with consistent and supportive stewardship throughout the gift acceptance process
- Closed the largest real estate funded gift in the organization's history to that date
- Moved organization's standing from a 2% estate residuum beneficiary to that of a lifetime gift of approximately 50% of Smith's estate

PRACTICAL PLANNED GIVING CONFERENCE SPEAKER EVALUATION

Date: _____ Speaker: _____

Name (optional): _____

Please rate the following:

	Excellent	Good	Neutral	Fair	Poor
I. OVERALL	5	4	3	2	1
Were your major objectives for this session met? Was the content of the session vital, timely, substantive?					
Comments: _____					

II. RELEVANCE	5	4	3	2	1
Was the subject matter directly related to the requirements of your job?					
Comments: _____					

III. VALUE	5	4	3	2	1
Do you believe the benefits of this session were worth the time, effort and cost?					
Comments: _____					

IV. SPEAKER	5	4	3	2	1
How was their presentation style? Did the session move along at the right pace? Did they have appropriate knowledge on the topic?					
Comments: _____					

V. MATERIALS	5	4	3	2	1
Were the materials clear and organized and appropriately helpful for the session?					
Comments: _____					

Vi. What did you like the most about the session?

VI. Any suggestions to improve future sessions?

XII. How many years of gift planning experience do you have? _____