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# FORGING A NEW PARTNERSHIP: THE REAL ESTATE PROFESSIONAL AND THE NOT-FOR-PROFIT WORLD

by Richard S. Stanson, CRE, & Myra R. Karse

## ABOUT THE AUTHORS

**Richard Stanson, CRE**, has been a member of The Counselors of Real Estate since 1980. His firm RealSource Advisors, South Pasadena, CA, provides real estate asset management for not-for-profit organizations. His experience has included multi-city assignments counseling owners of historic structures in conversions to market uses.

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Real estate needs to change and grow to remain competitive in today's fluid economy. As professionals, we must remain open to change in order to grow with the times. We need to face the realities of fiscal conservatism, corporate downsizing, and demands for increased levels of services. These realities are issues to be dealt with by everyone in the business world, and the not-for-profit sector is facing those same realities. Not-for-profit organizations, ranging in size from small neighborhood churches to immense foundations, virtually all operate under Internal Revenue Service Section 501 C(3) or related tax exempt sections of the Code. At the end of 1993 there were more than a million such entities in existence, with more coming on line in each ensuing year. Fund-raising from a variety of sources is the lifeblood of the majority of these charitable endeavors. Using real estate as a funding medium has been, by and large, overlooked, misunderstood, and feared by most charities. Real estate professionals have added to the problem by mystifying what they do, how they do it, and how they charge for their services.

There are many charities across this country with widely varying missions, but they all have one thing in common: each would welcome expanded income but is finding it increasingly difficult to garner a larger share of the public's dollars. Of course, it is easier for many charities with broad appeal like the American Red Cross or single disease groups such as the American Cancer Society, because of their size and wide-spread visibility. However, even when a charity is less well known, there are ways to augment its cash flow. One method is to foster real estate gifts as an additional revenue stream.

For many charities, real estate has traditionally been a bugaboo. Occasionally a property may come in via a bequest, taking a charity by

surprise. A quick decision to accept or decline usually must be made. More frequently than not, the property is declined because the organization feels it is safer not to accept it. A charity may be afraid of making a mistake that might have an adverse effect on its image and the work it does. Often, real estate gifts are misunderstood, do not represent immediate cash flow, and require expertise that is not immediately available. Also, a charity may have held real estate in portfolio for so long - with no attention having been paid to it or without any efforts having been made to dispose of it - that it thinks it cannot benefit from further real estate. In either case, the perception is that property does not work for their organization.

### **FACTORS INFLUENCING REAL ESTATE SUCCESS IN CHARITIES**

*The Executive Director* - to build an organizational commitment to the value of real estate to an organization, the executive director and the staff members need to be in an acceptance mode. It is important that the organization speak with one voice when dealing with potential donors. The entire staff needs knowledge and awareness of real estate's value to the organization to answer basic donor questions. All too often, fund-raisers tend to have a parochial view of the world. They are deeply committed to raising money and sometimes may become locked into a particular pattern of fund-raising, perhaps special events or direct campaigns. They need to be convinced of the value of expanding their fiscal horizons.

*The Board of Directors or Trustees* - boards of directors also need to understand and support the commitment to real estate as a function of fund-raising. The board needs to understand the importance of having a system in place that can act quickly on real estate transactions. Since most boards of charities meet on a quarterly basis (or even less frequently), an Oversight Committee should be appointed to act on behalf of the board. The board should also pass a stock motion with liberal authority attached to it as well as resolutions authorizing the Oversight Committee to act.

*A Coherent Gift Acceptance Policy* - of prime importance is an organizational gift acceptance policy. The board, the executive director, the charity's planned giving officer (if appropriate) and outside consultant(s) should determine what types of properties *are* or *are not* acceptable. They should also determine procedures to follow during the acceptance process. Examples of non-acceptable

properties include heavily mortgaged real estate, remote land, or environmentally impaired parcels. This policy, as well as policies and procedures addressing managing/operating real property if necessary, should be ratified by the board and in place before serious consideration of a real estate program for the charity. Certain facts must be confirmed: the environmental status of the property is not adverse to the charity; the title to the property is clear and without blemish; and the physical condition of the property is as advertised when the donor presented the donation possibility.

*The Finance Department* - within most charities it is the finance departments (skilled as they are in managing difficult cash flow and phantom financial sources), who are often unaware of the potential value of real estate to their organization. Yet it is most often the finance department that keeps the important real estate records and documents, and that is receiver of income and expenses for property held by the charity. An educational training program for finance department employees can enable them to flag real estate activities and costs in order to monitor properties held to determine which might need to be reviewed to keep the portfolio producing income.

### **PROGRAM MANAGEMENT: VOLUNTEER OR PROFESSIONAL?**

In many charities it is a common practice to use volunteers. The work done by volunteers would be unaffordable to most charities if they had to pay for it. Volunteer help is universally accepted as the least expensive way of administering many programs and activities. Volunteers used in a real estate program would likely be board members or volunteers who are real estate brokers. They may be called on to handle the sale of donated property at reduced or no commissions. The real estate may or may not be in the volunteer's area of expertise or locale. However, as time passes without the property selling or leasing, the level of interest by the volunteer could tend to wane. Understandably, the volunteer's paying clients would receive primary attention.

Sometimes volunteer assistance can backfire on an organization, as in "The Case of the Inattention of a Normally Attentive Person." In the early 1970s, a widowed donor bequeathed her home in an upscale area of a city to a charity along with a life estate interest for the woman's minister and his wife. In 1992, when the last user of the property died, it became a donated asset. Although the house was

quite old and not in good condition, the land was very valuable for a new structure. An appraisal for nearly \$3,000,000 was obtained and the house was placed on the market for that amount with a local real estate broker. The client's Asset Management Committee placed the burden of managing the transaction on its chair, a skilled industrial executive. Within a month, a cash offer for \$2,450,000, with a quick closing, was received. For some unknown reason, the chair sat on the offer. Perhaps he hoped the buyer would make a higher offer, or was just plain too busy. Whatever the reason, he waited to make a counter offer. Then, after four weeks of delay by the client/seller, the offer was withdrawn and the \$2,450,000 disappeared. The residential real estate market then went into a slump due to an economic downturn. Six months later, a consultant was brought in, interviewed real estate brokers, got a multitude of comparable sales figures, and eventually was able to sell the property for \$1,700,000. This is an example of what can happen when volunteers are unreliable at a critical time in a transaction.

#### **THE ROLE OF THE PROFESSIONAL ADVISOR**

The first question for an organization to consider when seeking help is which type of professional would be best suited to help the not-for-profit meet its fund-raising needs in a practical and cost-effective manner. There are several possibilities available and each offers specific functions. As real estate generalists with comprehensive real estate backgrounds, Counselors make impeccable advisors to not-for-profit organizations. Most have spent time in brokerage, property management, mortgage banking, and/or appraisal.

The advisor to a not-for-profit should be broadly experienced in order to handle all types of problems with enough knowledge to complete an assignment expeditiously and economically. Members of a professional organization, such as The Counselors of Real Estate, would practice with strict adherence to a code of ethics, including prohibition against actual or perceived conflicts of interest. A real estate consultant, then, should be willing to work for a charity on a fixed-fee basis, either hourly or by the job. Although contingent fee arrangements are not prohibited, a greater degree of caution regarding conflicts of interest is called for. In any event, the Counselor would always place the interests of the client first and foremost in any advice provided, regardless of the method of compensation.

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A real estate broker can and should be used for the marketing and completion of a project, especially if the work to be done is a straightforward disposition of a parcel of real estate. The advantage of using this professional is that he/she could come from a variety of specialties such as residential sales; commercial and industrial sales and leasing; farm land brokerage; or retail leasing. Of particular importance is that the broker has local knowledge. The charity would have the option of choosing between a number of individuals with the proper credentials, allowing the organization to use the best source for a sale or a lease. The duration of employment of the commissioned broker is as long as the listing length on the particular property. If either the charity itself or the broker was not happy with the progress being made, at the expiration of the listing the charity could choose not to extend the listing contract or the broker could withdraw.

One great advantage of an arrangement with a commissioned real estate broker is flexibility for the charity. Another is that payment does not have to be made until the transaction is complete. In the case of a charity acquiring real estate for its own use, the commission would be paid by the lessor or seller, therefore the organization would have no out-of-pocket expense.

The real estate appraiser is the real estate professional that a charity might want or need to use regularly. It is always necessary that the donor obtain an appraisal report by a designated member in good standing of one of the appraisal institutes in the U.S. In fact, this is a requirement of the Internal

Revenue Service in order for the donor to be able to deduct the gift from his federal income taxes. The donor must provide an appraisal that has been done within 90 days of the date of the gift. There is a requirement that the charity file an IRS Form 8282 within the first two years of the acceptance of a real property donation if the property sells for less than the donated value.

Often, the donor has no idea whom to hire as an appraiser of the property to be donated. Most attorneys, accountants, or trust bankers have a list of qualified appraisers, but the recipient organization may have to provide names to the donor. Real estate appraisers are as widely specialized as brokers and must be chosen with care and a view to the type of property and use of the appraisal.

### TAKING CARE OF DONORS/CLIENTS

Even if the nature of one's practice is to serve charities, one is likely to encounter individual donors. If that donor desires to give real estate, some precautions are in order. First, as previously stated, for any property worth over \$5,000, a recognized and certified appraiser must complete an appraisal. If the charity is one the donor has been closely involved with, he/she can speak to the charity directly. If not, this is an area where the professional can make a difference in negotiations between charity and donor, having the facts ready, preparing the property for the gift, and helping to determine the timing of the gift.

Having some control over the appraisal is very important. If the charity takes in a property valued in excess of \$5,000, it has two years to sell the real estate at the appraisal or higher. If it is sold for less than the appraisal within that two years, the charity must file an IRS 8282 form, and the donor stands a chance of his/her tax return for the year the property was donated becoming open for review. This is especially dangerous if the selling price is more than 10 percent lower than the appraisal. The issue here is that the charity does not want to either inconvenience or anger a donor because that funding source might be willing to give again. However, the charity can only receive property as an unconditional gift and has the right to do with the property as it sees fit. In this fact lies the dichotomy. The way to relieve the donor is to negotiate with the charity of the donor's choice, or find a charity that will accept his property.

### SECONDARY DIRECTIONS FOR EXPANSION

Any not-for-profit attempting to expand its real

estate presence will need a consultant who can offer a training and education presence, as well as the aforementioned skills. Financial departments and fund-raising staff will need training that will allow them to be comfortable with overseeing property portfolios; executive directors will need coaching so they can direct their boards and boards of directors will also need enlightenment, and some tutelage, in order to make wise decisions. This creates a new niche, one that will assist in reshaping real estate's role in the marketplace.

Being prepared to assist any not-for-profit is a service that a real estate professional should not give away for free. Doing so will not offer the charities in a Counselor's community the long-term solution for accepting real estate. The service that the charities need is a professional real estate advisor who can offer counsel just as an accountant or lawyer would, with payment for services rendered.<sup>REI</sup>

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### ABOUT THE AUTHORS

(Myra Karse, continued from page 23)

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