



THE DALLAS FOUNDATION
Here for Good

GIVING COUNSEL

FALL 2008

Giving Gifts of Real Estate: A Win for All Sides

By Elizabeth E. Solender



ELIZABETH E. SOLENDER
SOLENDER/HALL, INC.
DALLAS, TX
214. 265.8200
ELIZA@SOLENDERHALL.COM

Elizabeth Solender is president of Solender/Hall, Inc., a commercial real estate and consulting company that specializes in assisting corporations and organizations buy, sell, lease, manage and finance commercial real estate. Elizabeth serves as a member of The Dallas Foundation Advisory Council.

Corporations, foundations and individuals often face the dilemma of holding real estate they no longer want. One option is donating the asset to a charitable organization. The charitable organization could use the property or sell it free of taxes. It is "free" money to them. It sounds easy, but a potential donor must consider the following questions:

WHY NOT KEEP THE PROPERTY?

What are the risks of continuing to keep the property? The most obvious is a decline in market value. While less dramatic than a drop in marketability, another risk is that the costs to hold the property may increase so that it is no longer worthwhile to retain it.

WHAT ARE THE COSTS OF CONTINUING TO HOLD THE PROPERTY?

Property taxes must be paid and run the risk of increasing. Insurance must be maintained regardless of its location. Improved or income-producing property requires maintenance, liability insurance, property management and leasing expertise. Raw land must be monitored to avoid illegal dumping.

Land within the city limits must be mowed and kept free of debris.

WHAT IS THE VALUE OF THE PROPERTY TO THE DONOR AND THE PROSPECTIVE CHARITABLE ORGANIZATION?

The charitable organization should ask for certain items prior to making a final decision to accept any gift of real estate. These items can include:

- A brief description of the property's current use
- A survey of the property
- A legal description of the property
- The names and percentage ownership of any co-owners
- Copies of recent tax statements, including tax appraisals
- Information on any current leases, outstanding contracts, operating statements and amount and terms of any debt
- Copies of any engineering or environmental studies.

In accordance with Publication 526 on Charitable Contributions prepared by the Internal Revenue Service, an appraisal by a qualified appraiser is required for noncash contributions over \$5,000 to support the value of the donation.

GENERALLY, GIFTS OF APPRECIATED PROPERTY ARE DEDUCTIBLE TO THE EXTENT OF THE FAIR MARKET VALUE OF THE ASSET.

It would be prudent for all charitable organizations to have an up-to-date Gift Acceptance Policy that addresses gifts of all types including those of real estate. These are very helpful to prospective donors and should be given to them. There are many good samples available on the Internet.

WHAT ARE THE TAX IMPLICATIONS?

Generally, gifts of appreciated property are deductible to the extent of the fair market value of the asset. The amount of the deduction depends on the type

of property. If the sale of the property would give rise to ordinary income or to a short-term capital gain – for example, inventory or property held less than a year – donors can deduct the fair market value of the property less the amount that would ordinarily be recognized as ordinary income. Otherwise, donors may deduct the fair market value of the property on the date of the gift. Donors must consult their tax counsel to fully understand other tax implications that require specific paperwork from both the donor and the charitable organization.

WHAT ARE THE ADDITIONAL COSTS AND CONSIDERATIONS WHEN DONATING REAL ESTATE?

The donor must be prepared to pay some or all of the costs associated with transferring ownership of real estate. In addition to the appraisal and the other items discussed above, these may include:

- An updated survey
- Additional engineering or environmental studies
- Title insurance
- Legal fees
- Tax certificate
- Past due taxes or other liens on the property

Moreover, some organizations will not accept property unless the donor is prepared to remain liable for any debt and contribute funds required for the on-going maintenance or management of the property until it is sold.

HOW DOES THE DONOR FIND THE RIGHT CHARITABLE ORGANIZATION FOR ITS PROPERTY?

In most cases, charitable organizations will want the proceeds from the sale of real estate to further their charitable purposes. In these cases, the charitable organization will immediately sell the property, raffle it, or swap it for a more desirable property. If the donor wishes to see a more long-term use of the property for programming purposes and not sold for a number of years,

(Giving Gifts continued on back)

How The Dallas Foundation Can Assist With a Donation of Real Estate

Over the last several years, a tremendous amount of wealth has been created through real estate appreciation. Gifts of real estate to The Dallas Foundation can be used to create a charitable fund to help the donor achieve their philanthropic goals while enjoying substantial tax benefits.

Real estate gifts to The Dallas Foundation could include private residences, vacation homes, apartment buildings, investment properties, commercial buildings, industrial properties, ranches, farms, vineyards, undeveloped land, timber, and mineral rights.

When one makes an outright gift of real estate to The Dallas Foundation, they are able to take a charitable deduction of the fair market value of the property contributed. This amount may be taken up to 30 percent the donor's adjusted gross income (AGI), and, if the amount is larger than one can use in one year, the nondeductible portion can be carried forward as a charitable deduction over the next five years, subject to the same AGI rules. The donor can also avoid any capital gains tax that may apply on a gift of long-term capital gain property.

One can also transfer real estate to The Dallas Foundation by a gift through a will or living trust by simply designating the property as a bequest. While such a transfer does not generate any income tax savings, all bequests to The Dallas Foundation from a will or living trust qualify for an estate tax charitable deduction.

There are also distinct advantages of donating real estate to The Dallas Foundation versus establishing a private foundation. Gifts of appreciated, long-term capital gain property such as real estate to private foundations are valued at the donor's basis only, rather than fair market value. If one has depreciated their interest in a property substantially over time, a gift of property to a private foundation offers little tax benefit.

For more information regarding gifts of real estate or other forms of charitable giving, please contact Victor Korelstein, director of development at The Dallas Foundation, at 214.741.9898 or vkorelstein@dallasfoundation.org.



SAVE the DATE

12TH ANNUAL CHARITABLE PLANNING SEMINAR

THURSDAY, JANUARY 15, 2009
7:30 – 10:30 A.M.
BELO MANSION
DALLAS, TEXAS

TOPIC:
CREATIVE CHARITABLE
PLANNING WITH
NON-CASH ASSETS

SPEAKER:
BRYAN K. CLONTZ
CFP, CLU, ChFC, CAP, AEP
PRESIDENT
CHARITABLE SOLUTIONS, LLC
JACKSONVILLE, FLORIDA
ATLANTA, GEORGIA

FOR MORE INFORMATION ABOUT
THE DALLAS FOUNDATION,
PLEASE CONTACT:
VICTOR KORELSTEIN,
DIRECTOR OF DEVELOPMENT
214.741.9898
OR
VKORELSTEIN@DALLASFOUNDATION.ORG
OR VISIT
DALLASFOUNDATION.ORG

Giving gifts (Continued from front)

the donor must choose the charitable organization carefully to be sure the property meets the organization’s goals.

Individuals might select a charitable organization that holds a personal interest to them as a donor. Perhaps they are already involved with the organization, contributors, current or former board members, or know key individuals associated with the charitable organization. Foundations and corporations might select charitable organizations that have similar missions or interests.

SUPPOSE THE CHARITABLE ORGANIZATION APPROACHES THE DONOR FIRST?

Often a charitable organization looking for a property will ask the owner of a desired property to donate the property or sell it at a price substantially below market value. In both instances, the donor and the charitable organization must go through the same due-diligence process. Costs involved in performing studies, obtaining a survey and title insurance are typically negotiable in this situation and the donor should explore this with the charitable organization.

WHY DONATE REAL ESTATE?

A gift of real estate could have a substantial positive impact on a charitable organization. Donors and charitable organizations who understand the donation process from the beginning are almost guaranteed to have a win for all sides.



Stuart Bumpas, Locke Lord Bissell & Liddell LLP
Chairman, Advisory Council

Jesse T. Abercrombie, *Edward Jones Investments*
Gary Ahr, ChFC, *AHR Financial Group*
Todd R. Amacher, *Robertson, Grieger & Thoele*
Larry K. Anders, *Summit Alliance Companies*
Barbara M. Anderson, *Attorney at Law*
Jimmy Averitt, *BDO Seidman LLP*
Sharon J. Baca, CFP, *Spectrum Strategies, L.L.C.*
Jayson Bales, CFS, *Spectrum Strategies, L.L.C.*
Michael D. Baril, *Morgan Stanley*
James C. Beach, *Bright & Bright, LLP*
Norma L. Beasley, *B & W Investments*
Charles M. Best, II, *Alliance Financial Group, Inc.*
Charles Birdsong, *The Hartford Advanced Planning Group*
Santo Bisignano, Jr., *Bisignano & Harrison, LLP*
Jan Hart Black, *Dallas Regional Chamber*
Kalita Beck Blessing, *Quest Capital Management, Inc.*
Truman G. Blocker, IV, *Spectrum Strategies, L.L.C.*
James Braden, *Brownlie & Braden, LLC*
Jon M. Bradley, *Weaver & Tidwell, LLP*
Thomas D. Brittain, *Glast Phillips & Murray, PC*
Patrick S. Carrigan, *Smith Barney*
John M. Collins, *Haynes and Boone, LLP*
Edward A. Copley, Jr., *Akin, Gump, Strauss, Hauer & Feld, LLP*
Deborah A. Cox, *JP Morgan Private Bank*
Edward M. Creager, *TravisWolff LLP*
Ronald R. Cresswell, *Locke Lord Bissell & Liddell LLP*
Dodee Crockett, *Merrill Lynch*
W. Bennett Cullum, *Bell, Nunnally & Martin, LLP*
Kamal N. Daya, CFP, *The Nautilus Group*
Brian L. Dethrow, *Jackson Walker L.L.P.*
Cory M. Dowell, *Bernstein Global Wealth Management*
Mary H. Durie, CFP, *Quest Capital Management, Inc.*
William S. Dykeman, *JP Morgan Private Bank*
John A. Eads, *Smith Jackson Boyer & Bovard*
Christopher D. Fay, *Smith, Frank & Partners, LLC*
Robert E. Feiger, *Friedman & Feiger, LLP*
Barbara B. Ferguson, *Thompson & Knight L.L.P.*
James B. Fincher, *Burch Fincher & Company, CPAs, P.C.*
Barry N. Finkelstein, *Barry N. Finkelstein, CPA*
Robert J. Firth, *Merrill Lynch Private Banking & Investment Group*
Derek L. Fletcher, *Winstead Sechrest & Minick*
David Folz, *Texas Capital Bank*
William J. Goodwin, *U.S. Trust Company of Texas, N.A.*
Eric Gough, *Morgan Stanley*
Joe M. Graham, *Graham Investments*
Donald J. Hahn, Jr., *Collins Basinger & Pullman, PC*
Greg Hall, CPA, CFP, *Tolleson Wealth Management*
John W. Harris, *Snell, Wylie & Tibbals*
Bob D. Harrison, *Bisignano & Harrison, LLP*
Jack W. Hawkins, *Gardere Wynne Sewell LLP*
James O. Hutcheson, *Regeneration Partners*
Mark A. Jaudes, *Insurance Designers*
Douglas G. John, *UBS Financial Services, Inc.*
Charles R. Johnson, *Johnson Jordan Nipper & Monk*
William D. Jordan, *Johnson Jordan Nipper & Monk*
Stanford M. Kaufman, *Stanford M. Kaufman & Associates*
Tom D. Kingsley, *Smith Barney*
Robert Kipp, *KBA Group LLP*
Robert H. Kroney, *Kroney Morse Lan, PC*

Robert Lane, *Lane Gorman Trubitt, LLP*
Sheryl B. Latham, *Attorney at Law*
George T. Lee, Jr., *Attorney at Law*
Eleshea D. Lively, *Kroney Morse Lan, PC*
Lynne J. Luby, *Luby & Associates*
Eric D. Marchand, *Meadows, Owens, Collier, Reed, Cousins & Blau, L.L.P.*
Tommy McBride, *Merrill Lynch*
Carmen M. McMillan, *The McCracken Co.*
Curtis W. Meadows, Jr., *Thompson & Knight L.L.P.*
J. Mitchell Miller, *Haynes and Boone, LLP*
James Mincey, Jr., *Mincey – Carter, PC*
John Mockovciak, III, *Robert W. Baird & Co.*
William R. Moss, CPA, IAS
Kathy Muldoon, *Carter Financial Management*
Alex E. Nakos, *Malouf Lynch Jackson & Swinson*
Ira L. Nevelow, *Weaver & Tidwell L.L.P.*
Keith V. Novick, *Gardere Wynne Sewell LLP*
E. E. Nowlin, *Deutsche Bank*
Colleen M. O'Donnell, *Strategic Wealth Partners*
David Parrish, *Goldman Sachs*
David J. Patterson, *HFG Advisors, L.L.C.*
Joan Peurifoy, CFP, *Financial Network Investment Corporation*
Robert C. Prather, Sr., *Snell, Wylie & Tibbals*
J. Clint Pugh, *Saville Dodgen & Company*
Andy Raub, *Raub Capital Management*
Dale R. Reed, III, *Merrill Lynch Private Client Group*
Rust E. Reid, *Thompson & Knight L.L.P.*
John L. Roach, *John L. Roach, Inc.*
James Y. Robb, III, *Perot Services*
David M. Rosenberg, *Thompson & Knight L.L.P.*
David T. Ross, J.D., L.L.M., *Bank of America – Philanthropic Management*
John K. Round, *Strasburger & Price*
Roger A. Shake, *Legacy Consulting Group*
David C. Sharman, *Brown Brothers Harriman Trust Company*
Terry Simmons, *Thompson & Knight L.L.P.*
Steven L. Skov, *Law Offices of Steven L. Skov*
Edward V. Smith, III, *Edward V. Smith III, P.C.*
R. Scot Smith, *Smith Barney*
John D. Solana, *Solana & Associates, P.C.*
Elizabeth E. Solender, *Solender/Hall, Inc.*
Richard J. Szelc, *Neuberger Berman, LLC*
C. Albert Tatum, III, *Investments*
Kenneth B. Travis, *TravisWolff LLP*
James K. Webb, *Webb Financial*
Paul H. Welch, *Fiduciary Financial Services of the Southwest, Inc.*
Robert E. Wilbur, *Robert E. Wilbur, Attorney at Law, PC*
Donald G. Williamson, *Attorney at Law – Mediator*
Clark Willingham, *Moseley Law PC*
Sondra Wilson, C.P.A., *Fiduciary Financial Services of the Southwest, Inc.*
Lawrence M. Wolfish, Esq., *Wolfish & Newman, P.C.*
Scott A. Wood, *True North Advisors*
David R. Work, Esq., *Merrill Lynch Trust Company, FSB*

ADVISORY COUNCIL

Confirmed in Compliance
with National Standards for
U.S. Community Foundations



900 JACKSON STREET, SUITE 705
DALLAS, TEXAS 75202-4447

Here for Good

THE DALLAS FOUNDATION



NONPROFIT
U.S. POSTAGE
PAID
Permit # 2791
DALLAS, TX

ADDRESS SERVICE REQUESTED