Case Study: A Solution to a Prearranged Sale Dilemma

A donor approached a fundraising staff member at the George Washington University with an offer to donate her rental condominium. She was excited because it was under contract to sell for $550,000 with closing to take place in 10 days. The university's real estate specialist met with the donor and discussed the prearranged sale.

The donor was advised that the university would be happy to receive the gift, but under the circumstances, the donor would be subject to a huge capital gains tax. (The basis in the property was $50,000.) The donor did not understand why the Charity would not accept the gift and give her full gift credit. The initial gift of the condo was to be the first of two property gifts she would use toward funding a $1 million endowed scholarship. She planned to add the equity in a second property to the pool for the endowed fund. Should the two net equities not equal $1 million, she intended to make up the shortfall with a provision in her will or use cash assets to fulfill the commitment.

Losing credit for the first transaction was not an option if the Charity wanted to save this wonderful donation. The team of accountants and attorneys involved in the original property purchase agreement came up with a solution. The donor/seller and buyer agreed to amend the purchase agreement to allow the donor/seller to add a provision for an Internal Revenue Service Section 1031 exchange. Exchanging the equity in the property for another property allowed the donor to freely donate the second property without capital gains taxation.

The sale of the condo was completed as planned. The net proceeds from the closing were placed into an escrow account controlled by a facilitating agent. With the expertise of the university's real estate specialist, a replacement property was located and purchased within the guidelines of IRS 1031 exchange provisions.

Once the second property had closed, the donor leased the property for a short period of time and decided to move forward with a bargain sales agreement. This is a simple agreement in which a donor sells securities, real estate, tangible personal property, or other assets to a qualified charity for less than the fair market value.

The bargain sale reimbursed the donor for costs related to the property exchange, and the university for funds advanced to repair the replacement property. After the reimbursements were made, the gift was booked at nearly the face value of the original property value when it was first offered as a gift.

A buyer was located for the second property, and closing took place. Funds were distributed to each party according to the donation agreement.

The professionals who played a role in this type of arrangement included a tax attorney, a certified public accountant, a title company officer, the university's general counsel, a facilitating agent, and a Realtor with Section 1031 exchange experience.

To use this technique, the property offered as the donation must meet the IRS criteria as "like-kind" property. The Starker provision requires that a donor and his/her agent comply with this or use the simultaneous closing technique.

S.E.C. members might be well served to use their creative real estate knowledge to help public charities fulfill their missions. It is estimated that more than $65 trillion in assets will be transferred

by this generation to the next during the next 25 years. About 40% of this amount is in real estate equities. Seize the day!

Chase V. Magnuson has over 40 years of experience in the real estate industry, with an extensive background in facilitating donations of individual, corporate, and commercial investment real estate. He developed marketing material of guidelines for donations of real estate for charities and donors and has conducted training sessions across the country to help others learn how to make gifts of real estate beneficial to each party. In 2014, he coauthored the book The Secret Power Behind Real Estate Donations.

Chase earned a B.S. from Ball State University in Muncie, Indiana. He holds the elite designation of CCIM (Certified Commercial Investment Member), and he is a Certified International Property Specialist (CIPS), a Senior Real Estate Specialist (SRES), and a member of the International Council of Shopping Centers and the Corporate Real Estate Network.

For more information on this subject, please contact:

REAL ESTATE
for Charities

Chase V. Magnuson, President
Real Estate for Charities
4931 Thunder Creek Lane
Sugar Land, TX 77479
Phone: (714) 815-8889
Email: info@realestateforcharities.com