Guidelines for Accepting Charitable Gifts of Real Estate

Foundation for Roanoke Valley welcomes gifts of real estate which will benefit the community and help the Foundation achieve its charitable purposes. To determine whether the property will be of benefit and therefore appropriate for the Foundation to accept, the Foundation must consider the net value of the property, that is, the value less the liabilities and expenses associated with it, including (if the property is to be sold) the expenses of marketing and selling the property.

Below are a number of items which potential donors should know and understand as they contemplate a charitable gift of real estate. ***Note: this information is not intended as legal advice - donors are strongly encouraged to consult their own professional advisors.***

I. <u>**Valuation**</u>

If the claimed value of the real property for income-tax deduction purposes exceeds $5,000, the donor is generally required to have a qualified appraisal. This appraisal is done at the donor's expense and must be done within 60 days of the gift. A copy should be given to the Foundation.

II. <u>**Liabilities and Expenses.**</u>

(a) <u>Environmental conditions</u>

The Foundation will require the donor to have a Phase I Environmental Audit conducted at the donor's expense. If potential problems are indicated by the Phase I Audit, the Foundation may require a Phase II Audit before deciding to accept the property.

(b) <u>Encumbrances</u>

The Foundation will need to know terms of any debts secured by the property or other encumbrances and the potential sources of income to service or satisfy those encumbrances.

(c) <u>Insurance and taxes</u>

The Foundation will need to know what hazard insurance and liability insurance exists with respect to the property and the current status of any premiums. It will also need to know the taxes to be expected and to know the potential sources of income to pay these expenses as they accrue. All real estate taxes should be current at the time of the gift. The Donor will be responsible for rollback taxes, if any.

(d) Management and Maintenance

The Foundation will need to know of any arrangements that have been made for management and maintenance of the property and the costs and sources of income to meet this obligation.

III. **Legal Considerations**

(a) Title

The Foundation will need to know whether it will receive good title. For this purpose it will generally require a title opinion from an attorney or title insurance company. Costs related to the title search and closing will normally be paid by the Donor unless the Foundation agrees otherwise. Upon acceptance of the gift, the Foundation will purchase title insurance, and any title insurance premiums paid will be reimbursed to the Foundation from the net proceeds of any eventual sale of the property.

(b) Survey

If the property has been surveyed, the Foundation will want a copy of the Survey. It would be helpful to have an "as built survey" for improved properties.

(c) Deed

Normally the Foundation will expect that the title be conveyed to it by warranty deed. The Donor will pay for any required legal costs for preparation of the deed, for court recording costs and for any additional related costs.

IV. **Additional Disclosures**

(a) Unconditional Gift

Potential donors must understand that once real estate is gifted to the Foundation, the property is owned by the Foundation subject only to recorded restrictions. The Foundation will have total and sole discretion as to if and when the property is sold, to whom it is sold, the manner in which it is sold and for what price it is sold.

(b) Net Assets

Potential donors must understand that the eventual realized sales price (whatever that amount may be) less any expenses properly attributable to the sale and less reimbursement to the Foundation for any proper costs it has incurred as part of the gift will constitute the assets of the desired charitable fund within the Foundation.

(c) IRS Responsibilities

Potential donors must understand that it is their responsibility, in consultation with their own professional advisors, to determine the appropriate value of any income-tax deduction claimed as a result of a gift of real estate. It is the Foundation's responsibility, if the property is sold within two years of the gift, to inform the IRS of the sale of the donated real estate and to fully disclose the actual sales price. If there is a significant difference between the actual sales price and the valuation claimed on the donors' tax returns, and if there is ever any subsequent IRS audit, it is the donors' responsibility to explain the claimed valuation.

The Foundation appreciates your consideration of this gift, and please call us with additional questions or concerns. We look forward to working with you to help you achieve your philanthropic objectives and provide significant benefit to the community.