

Procedures for the Administration of Gifts of Real Property

The Florida State University (FSU) Real Estate Foundation welcomes, and actively solicits, gifts of real property. In addition, in furtherance of its mission, the FSU Real Estate Foundation may acquire interests in real property by non-gift means for use by FSU.

The Real Estate Foundation markets gifts of real property unless the university intends to retain the property for active use. Proceeds from donated real property sales, lease or trades are used for the charitable purposes specified by donors.

The Real Estate Foundation Board of Directors determines acceptance, management and liquidation of real property according to the following policy: The Real Estate Foundation makes inquiries prior to the acceptance of a real property gift concerning its condition, including valuation, marketability, carrying costs and environmental risks. Real property gifts and allied transactions require MAI or SRA appraisals, title work, environmental reports, and other due diligence procedures typical of real property transactions.

The appraisals and environmental reports are of particular importance to donors and the Foundation. They provide measures of protection to both parties from claims by third parties, including the Internal Revenue Service or government environmental agencies. For example, the IRS requires “qualified appraisals” before donors are allowed to claim income tax deductions for charitable contributions. Also, federal and state environmental statutes can impose retroactive, joint and several liability upon donors (or their estates) or the Real Estate Foundation regardless of fault. This liability can be limited by due diligence exercised by both donors and the Real Estate Foundation.

The following procedures are to be followed in the acquisition, use, management, sale, lease or trade of real property. Any questions about the procedures should be directed to the Real Estate Foundation’s Treasurer. The procedures govern the acceptance of real property, special acquisitions, and the management and sale of real property.

Following a review process that includes relevant Real Estate Foundation staff and, at times, other consultants, the sole authority for the acceptance of any real estate gift rests with the Real Estate Foundation’s Board of Directors. Except as provided for in Paragraph J, College or Unit Agreement infra, the donor and/or university unit serving as cognizant beneficiary or purchaser of each real property must agree, in writing and prior to consideration by the board of directors, to pay all expenses and carrying costs of the property. These include, but are not limited to legal fees, taxes, mortgage and interest payments, insurance, utilities, and other expenses until the property is liquidated. If a decision is made to retain the property to maximize its ultimate benefit to the university, the university unit benefitting from the donation of the property would be responsible for paying the cost noted above on an ongoing basis. The donor’s or university unit’s agreements to this arrangement shall be sufficient to authorize the Real Estate Foundation to disburse funds for the expenses from the beneficiary fund, or, if that fund has

insufficient cash assets, from another fund of the unit designated by its dean or chair. The Real Estate Foundation also may agree to carry such costs and will recapture any expenditures from sale proceeds.

Minimum Standards for Real Property

Acceptance of any real property is subject to the following minimum standards:

- A. Completion of the Real Estate General Review – Parts I and II.
- B. Review and recommendation by the Real Estate Foundation’s Treasurer. The completed reviews must be submitted by an FSU Foundation fundraiser, or a fundraiser’s designee, to the Treasurer at least three weeks prior to consideration by the board of directors.
- C. A Phase I Environmental Report, prepared at the prospective donor’s expense, except where the proposed gift is residential property. The board of directors may accept or reject this report and request a Phase II or III Environmental Report. These also are subject to approval by the committee.
- D. Proof of clear chain of title.
- E. A plat rendering that includes adjacent properties. The board of directors may also require a survey.
- F. A building inspection and termite inspection must be completed by qualified companies at the prospective donor’s expense.
- G. An MAI or SRA appraisal, whichever is appropriate, that has been or will be performed within sixty days prior to the date of the gift, except as noted in Section C herein entitled “Appraisal”.
- H. All revenues, expenses, assessments, and claims associated with the property paid and/or current on the date of gift, including taxes and other expenses for which the Real Estate Foundation would be ultimately liable, including without limitation, mortgages and liens, and lease or other revenues.
- I. Mortgage assumption assignment ability acceptable to the board of directors.
- J. Absence of referral fee(s) to secure the gift.
- K. Approval by the board of directors of any special deed clauses associated with the property.

- L. An agreement, in writing, to pay all expenses related to the property prior to sale or final disposition. In certain instances, the university unit may agree to repay the Real Estate Foundation its costs from the proceeds of the sale.

Real Estate Gift Analysis

Prior to acceptance or recording of any documents related to real property acquisitions, the Real Estate Foundation's Treasurer will expeditiously review the documentation, taking into consideration the donor's time constraints. They will consider the following about the real property to be acquired:

- A. Market conditions for resale or disposition.
- B. The condition of any improvements.
- C. The current and potential zoning, land use, and concurrency issues.
- D. Any costs associated with holding the real property for resale.
- E. Donor's comments in General Review Parts I and II.6
- F. Other considerations specific to the acquisitions (see Section L herein).

General Warranty Deed

Title will be transferred to the Real Estate Foundation by general warranty deed unless transfer is by a trustee, personal representative, or other fiduciary providing a deed appropriate to that capacity. The Real Estate Foundation's legal counsel will review all deeds.

Appraisal

The Internal Revenue Service requires an appraisal if the value of the real property is greater than \$5,000 and the donor wishes to claim a charitable income tax deduction. The appraisal must be performed and value rendered no earlier than 60 days prior to the date of the gift and no later than the due date of the donor's tax return in which the charitable deductions for the gift will be claimed. In the absence of an appraisal, the real property may be recorded on the books for its current ad valorem tax value provided that such property shall be recorded at no more than \$5,000.

Appraisals must conform to acceptable appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation as evidenced by USPAP. Appraisers must be state-licensed or certified. Appraisals must be performed by a member of the Appraisal Institute (MAI) for commercial properties or a Senior Residential Appraiser (SRA) for residential properties. The appraisal methodology must conform to the regulations and definition of market value.

It is the responsibility of the donor to pay for the appraisal. Appraisers should be engaged directly by the Real Estate Foundation. If not, the Real Estate Foundation will provide an approved list of appraisers from which the donor must select. The Real Estate Foundation will select appraisers on a non-preferential basis who (1) possess the requisite education, expertise and competence to render an unbiased opinion, and (2) have no direct or indirect interest, financial or otherwise, in the property or the transaction.

The Chair of the Real Estate Foundation's board of directors must approve any exception to the policies on appraisal, appraisers, or payment of appraisals.

Title Search and Title Insurance

A title search is required for all real property transactions. A title search and title insurance will be required for non-gift or gift acquisitions of mortgaged property. In all cases, satisfactory proof of title must be furnished.

Survey

A survey may be required for any real property transaction. A survey will be required for all gift and non-gift acquisitions of mortgaged property, unless the board of directors and the Real Estate Foundation's legal counsel determine that existing surveys or drawings are adequate. It is the responsibility of the donor to pay for the survey, if required.

Real Property Taxes and Other Carrying Costs

The donor is required to present evidence that all real property taxes and other carrying costs are paid and current. Donors will pay all or prorate the taxes and other carrying costs until the property is sold. If a decision is made to retain the property to maximize its ultimate benefit to the university, the university unit benefitting from the donation of the property would be responsible for paying the real property taxes and other carrying costs on an ongoing basis.

Mortgaged Property

The Real Estate Foundation rarely accepts mortgaged property and never accepts mortgaged property into a charitable remainder unitrust. However, when real property subject to a mortgage is acquired, the mortgage will be current and assumable and will be accepted only following approval by the board of directors and the Real Estate Foundation's legal counsel. Prior to the acceptance of mortgaged property, the following must be obtained:

- A. A minimum of a 50 percent equity value will have been established.
- B. A method for the payment of the remaining debt will be determined.
- C. An MAI or SRA appraisal will have been performed within sixty days prior to the date of the gift.

Leases

When real property is acquired subject to a lease, leases will not be in default and will be assignable by the landlord. All property acquired subject to a lease will require approval by the board of directors. Upon approval, the leases will be assigned to the Real Estate Foundation and all deposits, advance rents, and other monies will be transferred to the Real Estate Foundation or otherwise accounted for as required by law.

Special Deed Clauses

The board of directors must approve any special deed clauses.

College or Unit Agreement

Each academic unit benefiting from a gift or acquisition of real property will agree, in writing, to pay taxes, insurance, mortgage payments, and other related expenses incurred by the Real Estate Foundation until the property is liquidated. The units may agree to allow the Foundation to recoup these costs from the proceeds of the sale of the property. The written approval will authorize the Treasurer to pay the expenses and it will identify the appropriate Real Estate Foundation account from which the monies are to be disbursed. Due to IRS regulations, this portion of the policy will not apply in cases where charitable remainder unitrusts are funded with real estate.

Environmental Requirements

No interest in real property, whether acquired outright, in trust, by bequest, as a secured interest, or otherwise, will be accepted by or on behalf of the Real Estate Foundation without first complying with the following procedures:

- A. The FSU Foundation staff member responsible for coordinating the transfer of real property will notify the Real Estate Foundation Treasurer of the proposed transaction as soon as possible.
- B. A Phase I Environmental Report will be performed on every real property asset, except residential property, prior to its acceptance by the Real Estate Foundation. The Real Estate Foundation, at its discretion, also may require environmental reports on residential property. It is the responsibility of the donor to pay for any Environmental Reports.
- C. If the environmental report indicates area(s) of significant concern, a more comprehensive investigation including, but not limited to, a Phase II or Phase III Environmental Report will be undertaken prior to acceptance of the property. All environmental reports will be performed by a consultant approved by the Real Estate Foundation.
- D. If the above procedures reveal any liability, the real property may be accepted only after a request, in writing, by the Treasurer and a subsequent written approval of the board of directors.
- E. All contracts for environmental reports will be prepared and reviewed by the chief financial officer.

- F. The Real Estate Foundation will obtain an indemnification agreement from the transferor of real property regarding hazardous waste liability.
- G. In the case of an acquisition of real property by estate, all costs of environmental assessment and remediation will be borne by the estate before the real property is distributed to the Real Estate Foundation. If the remediation is too costly, or the potential for liability too great, the Real Estate Foundation may disclaim its interest in the real property.

All real property held by the Real Estate Foundation in any capacity shall be managed to minimize or eliminate any liability resulting from hazardous materials and to comply with all federal and state regulations related thereto. The sale or transfer of real property by the Real Estate Foundation will be handled so as to eliminate any future liability by the Foundation for hazardous substance remediation. The Real Estate Foundation will fully disclose to prospective transferees any and all information concerning the condition of any hazardous substances existing on the real property.

Unsolicited Deeds

Unsolicited deeds will not be accepted. Upon the receipt of unsolicited deeds, the chief financial officer will immediately notify the grantor in writing that the real property has not been accepted and will not be accepted until the requirements of the policy governing real property transfers are met.

Helpful Information

The appropriate development officer from the FSU Foundation should submit the following information, if available, together with the gift review form to the board of directors:

- A. Deed, including legal description, showing ownership by the donor.
- B. Prior appraisal.
- C. Prior survey.
- D. Prior titles policies or abstracts.
- E. Prior environmental assessments and building inspection reports.
- F. Tax parcel identification number.
- G. Copy of most recent tax bill.

Real Estate Used to Fund Planned Giving Vehicles

As a general rule, encumbered real estate should not be used to fund any type of income-producing planned giving vehicle. However, unencumbered real estate may be used to fund specific types of planned gifts known as charitable remainder unitrusts. Section 664 of the Internal Revenue Code describes the types of charitable remainder trusts to be used in this situation. The rules involved are complex and specific. Should the donor request that the Real Estate Foundation serve as Trustee of such a charitable remainder unitrust, the FSU Foundation's Office of Planned Giving will review the request in consultation

with the chief financial officer as well as the Real Estate Foundation's agent in managing these trusts.

The Real Estate Foundation strongly discourages the use of real estate as a funding mechanism for all other types of income-producing vehicles, such as charitable gift annuities.

Time Share Units

Time share units will not be accepted as gifts by the Real Estate Foundation

The Sale and Management of Real Property Gifts

In accepting property for resale, the Real Estate Foundation seeks to obtain the best price and terms within a reasonable period of time, unless the board of directors deems that holding or leasing of the property is in the Real Estate Foundation's best interest. During any holding or leasing period:

- The Real Estate Foundation is authorized to charge routine property carrying costs, such as taxes, insurance, maintenance, travel, surveying/engineering, title examination, closing and other costs, to the cognizant beneficiary of the property in accordance with the Procedures For Accepting Real Estate Gifts. These costs shall be reported regularly to the appropriate fund administrator.
- The properties will be listed for sale within a reasonable period of time. The Treasurer is authorized to execute listing contracts on behalf of the board of directors.
- A property's objective may be changed to the production of income or appreciation after consultation with all affected parties and with the consent of the board of directors.

Sales Efforts

The properties will be listed for sale within a reasonable period of time. The Treasurer shall provide the board of directors, at its periodic meetings, with an inventory of all held by the Real Estate Foundation. The committee may solicit board assistance in liquidation efforts.

- Brokers participating in the local Multiple Listing Service (MLS) or the equivalent listing service for commercial properties shall be given preference. All efforts shall be made to retain a brokerage that can give the property the broadest national exposure.
- The Real Estate Foundation strives to provide all brokers with equal access to its real estate inventory. This objective does not preclude the use of exclusive listings provided that broker fees are not in excess of customary local fees.

- Properties may be marketed in-house, although this practice is discouraged. The chief financial officer shall attempt to negotiate reduced fees when brokers present buyers arising from in-house marketing efforts.
- An auction sale may be approved by the board of directors for groups of lots or parcels when they are in the same subdivision or geographic location.

Listing Prices

- The listing price of property shall be set by the Real Estate Foundation based on review of information contained within the current appraisal and recommendation by the listing broker. If no offers have been received on the property within a reasonable period of time, the Foundation's treasurer shall seek authority from the chair of the Real Estate Foundation's board of directors to reduce the listing price accordingly. In situations where it is in the Foundation's best interest not to have a listing price on property held for resale (i.e. large commercial properties, etc.) no listing price is required.
- No referral fee will be paid to any broker securing a gift of real property. Special consideration may be given to the procuring broker when listing the real property for sale, provided any such agreement to list is non-binding on the Real Estate Foundation and the fees are not in excess of customary local fees.
- Whenever possible, the Real Estate Foundation staff will solicit recommendations regarding local brokers and the general marketing effort from local board members, friends of FSU or the donor.
- The payment of fees to brokers when they are principals is discouraged. In such an event, the proportion of the broker's interest in the transaction will reduce the fee.

Acceptance and Execution of Contracts

The Treasurer and/or the Real Estate Foundation's legal counsel will review and comment upon each sales contract prior to its presentation to the board of directors for review. Contracts will be subject to the following:

1. The Foundation board's Treasurer is authorized to execute sales contracts under \$100,000 without board of directors approval, if the sales price is at least the approved price, and the contract contains standard terms. The Treasurer will report all such transactions on a quarterly basis.
2. Contracts exceeding \$100,000 require the approval of the Real Estate Foundation's board of directors prior to execution by the Foundation Treasurer.
3. All other contracts require board of directors approval prior to execution by the Treasurer.
4. The Treasurer is encouraged to seek advice of the Real Estate Foundation's board of directors when negotiating sales contracts. Financed sales will be subject to the prior approval of the Foundation's board.
5. The secretary of the Foundation's board, or his/her designee, will keep minutes of all actions of the board of directors.

Leasing

Leases With FSU

- The chief financial officer may negotiate leases with FSU at less than market rents, provided the use of the real property is non-profit, complies with FSU's objectives and the Real Estate Foundation's mission, and does not result in any expense to the Real Estate Foundation. The leases may not create a negative cash flow for the Real Estate Foundation unless the beneficiary college agrees in writing to underwrite the losses.
- All leases will be negotiated and executed in accordance with the FSU Board of Trustees' policies and procedures.
- The Real Estate Foundation's legal counsel will review and approve all leases prior to execution.
- Funding of depreciation shall be considered when computing break-even points for below market or nominal rent leases.

Other Leases

- Upon approval by the Real Estate Foundation's legal counsel, the Treasurer is authorized to execute a lease provided that the term is less than two years and/or the total rent is \$25,000 or less.
- Approval by the board of directors will be required when the term of the lease is more than two years and/or the total rent is more than \$25,000.
- The Treasurer may delegate leasing and management functions to outside professional management firms when deemed appropriate.

Non-Discrimination

The Real Estate Foundation will not discriminate or condone discrimination in its real property activities. It will conduct all affairs in compliance with all applicable state and federal equal opportunity, fair housing, equal credit opportunity or other anti-discrimination laws.

Exceptions

Upon written request by the chief financial officer, exceptions to these policies and procedures will, except for Paragraph E above, *Non-Discrimination*, be considered on an individual basis by the board of directors.

THE FLORIDA STATE UNIVERSITY REAL ESTATE FOUNDATION, INC.

REAL ESTATE GENERAL REVIEW – PART I

(To be completed by either the owner/prospective donor or by the development officer using information provided by the owner/prospective donor)

Legal description and location of property (e.g., lot xx, section xyz, subdivision, county, etc.)

Is the property owned jointly with other individuals? Yes ___ No___

Name, address, and social security number of each property owner and type of ownership:

Describe when and how each owner(s)/prospective donor (s) acquired the property. Indicate the property's "adjusted basis" or "tax cost (i.e. the original purchase price plus cost of improvements less depreciation claimed while owned).

Has a professional appraisal been prepared within the last six months? Yes___ No___

- If so, please indicate appraiser's valuation and attach a copy of the report.
- If not, what is the owner/ prospective donor's estimate of the property value? Describe the basis for this estimate.

Has the property been on the market at any time during the last year? Yes___ No___

- If so, please indicate dates, offering price(s), and name and address of representing agent.

Is the property "marketable"? Yes___ No___

- If yes, describe recent comparable sales.

Does the property currently produce income? Yes__ No__

- If yes, please indicate the specific source and periodic amount.

List each current lease arrangement relative to the property, including lease term, provisions for insurance, taxes, maintenance responsibilities, and notice requirements for vacation of the premises. Provide a copy of each lease agreement.

Is the property encumbered? Yes__ No__

- If so, please list each mortgager or claimant, and the amount owed to each.

Are all taxes, covenant fees, and maintenance expenses current? Yes__ No__

Please provide an estimate of the annual expense borne by the property owner(s) for the following:

- Property taxes
- Insurance
- Utilities
- Maintenance
- Association dues/fees
- Other

Please indicate current zoning classification and any pending rezoning issues.

Please describe any problems unique to the property, e.g., zoning questions, neighbor disputes, property upkeep, controversial development planned for the area, etc., that have not otherwise been discussed in this questionnaire.

REAL ESTATE GENERAL REVIEW – PART II

(To be completed by development officer)

1. What use does the donor wish to make of the proceeds of the sale?

If the donor intends to fund a named endowment, have, or when will fund guidelines be executed ? Yes__ Date _____ No__

2. Has the donor been advised of his/her responsibility to provide an appraisal an environmental study (phase I, minimum), and title examination at his/her expense? Yes__ No__

3. Will the gift be used to provide income to the donor and/or other beneficiaries? If so, does the donor understand that a net income charitable remainder uni-trust is the only gift arrangement available? Yes__ No__ N/A__

- a. Will there be more than one life income beneficiary? If so, indicate names, dates of birth and social security numbers of each beneficiary.

4. Was the donor advised of appraisal requirement relative to IRS Form 8283? Yes__ No__

- a. Was the donor advised of the IRS reporting requirements for properties sold within two years of the date of the gift? Yes__ No__

5. Please indicate your assessment of any problems unique to the property, e.g., zoning questions, neighbor disputes, property upkeep, controversial development planned for the area.

6. Are you aware of any prospects interested in purchasing the property?

Development officer name: _____