

REAL ESTATE ACCEPTANCE POLICY AND PROCEDURE

**Diocese of Rockford
Revised July, 2002**

I. Initial Contact with Potential Donor

- A. The Director of Planned Giving will inform potential donor that acceptance of real estate is not automatic. A meeting is scheduled to gather the needed information.

II. Information Gathered During Initial Interview

- A. The *Real Estate Survey* form is filled out with the potential donor and Director of Planned Giving.
- B. An initial walk-through of the property. If not possible at this time one will be scheduled. This is to provide a general overview of the property as to its condition and use.

III. Types of Life Income Vehicles or Other Agreements Available to Donors of Real Estate

- A. Outright gift with no life income.
- B. Retained Life Estate (personal residence or farm only) - donor deeds property to the Diocese and retains total control of and responsibility for property.
- C. Deferred Charitable Gift Annuity
 - 1. Donor transfers property to Catholic Foundation
 - 2. Catholic Foundation has at least one year to sell property before annuity payments begin.
 - 3. Once property is sold, assets are transferred to Diocesan Annuity Program.

IV. Review of *Real Estate Survey* and Initial Walk-through

- A. The Director of Planned Giving and, if deemed appropriate, with the Director of Development and/or the Director of Financial and Administrative Services will determine if the property is in the best interest of the Rockford Diocese to pursue.

- B. Reasons for possible rejection of the property
 - 1. Mortgaged property - normally rejected unless property is of exceptional value to the Diocese. The Director of Financial and Administrative Services must make this determination.
 - 2. Industrial/commercial property - same as above. Due to volatility in the worth or use of such property as well as potential environmental contamination (see environmental assessment requirements below) of said property could cost the the Diocese more than it is worth. The Director of Financial and Administrative Services must be consulted prior to proceeding.
 - 3. Long-term (1+ year's) leases - the buyer must honor the lease. This could be a positive or a negative for a potential buyer. The more restrictive the property the smaller the market for selling. This will be viewed within the context of the total assessment of the property.
 - 4. Outstanding liens, unpaid taxes or assessments and other encumbrances - only considered for acceptance if evaluation convincingly demonstrates that the property can be sold at a price which exceeds the aggregate amount of the encumbrances and any costs associated with satisfying them.
 - 5. Rundown condition of buildings - usually rejected unless property (land) is of interest to the Diocese and/or the total probable gain from the sale of the property will far exceed the cost of upkeep and repair. The Director of Financial and Administrative Services must determine this.
 - 6. Observable or potential toxic and chemical contamination - any property that is used to manufacture, store or distribute chemicals of any kind is always rejected.

- a. Farms or residential (commercial or personal) property that have observable chemical leaks and/or an excess of “junked” equipment. Donor will be required to rid the property of the above prior to acceptance. Proceeding further with property described above will only take place if the property’s value to the Diocese far exceeds the potential problems in making sure the property is successfully cleaned up.

V. Market Evaluation

- A. A *qualified appraisal* is required for all real estate gifts.
 1. Appraisal is ordered and normally paid for by the potential donor. The payment can be negotiated on a case by case basis with the Diocese paying for part or all of the appraisal.
- B. A real estate agent/broker will be secured by the Diocese to give an opinion as to market value and marketability of the property. This is not a paid-for service unless the Diocese determines the value in doing so.
- C. The two evaluations will be compared. If there is a noticeable difference in the two, an agreeable value will be negotiated between donor and Diocese.

VI. Environmental Assessment

- A. All commercial, industrial and farm property must have a phase one environmental assessment completed.
 1. The Diocese at its discretion may also order an environmental assessment for any other property (i.e., residential) not listed above if deemed necessary.
 2. Residential property may need to have a structural inspection performed if deemed necessary.
- B. The Director Planned Giving orders the assessment(s) after consulting with the Director of Financial and Administrative Services.
- C. The Diocese pays for the assessment under most circumstances. If the property is questionable the Diocese may require the potential donor to pay for it. In any case it is the Diocese that contracts the work not the donor.

VII. Acceptance of Property

- A. Upon completion of the above requirements, the Director of Planned Giving will present for approval, the results to the Director of Financial and Administrative Services with any recommendations.
- B. If accepted, a Title Policy will be obtained for the minimum amount unless the Director of Financial and Administrative Services deems it important for it to be for a greater amount.
- C. The diocesan attorney will be consulted regarding the status of the acceptance and any legal concerns in accepting the property. A warranty deed will then be drawn up by the donor's attorney, to be signed by the donor and sent to the Diocese.
- D. If the property is currently rented or leased the donor will contact the tenants in writing regarding the transfer of the property. A copy of the communication(s) will be provided to the Diocese.
 - 1. Donor will provide names, addresses, phone numbers and rental/lease agreements to the Diocese of any persons or businesses currently occupying the donated property.

VIII. Bequeathed Real Estate

- A. Donors will be encouraged to discuss with diocesan officials contemplated bequests of real property before finalizing their Will or trust.
- B. Property bequeathed to The Catholic Foundation or the Diocese and/or Bishop when the Foundation is responsible for disbursement of proceeds from the sale of the property will be evaluated like all other real estate gifts.
 - 1. The bequest will be refused if the property does not meet the stated requirements for acceptance.

IX. Internal Procedures After Accepting Real Estate

- A. Any above information gathered by the Director of Planned Giving not already given to the Director of Financial and Administrative Services will be done so.
- B. The Director of Financial and Administrative Services will then take complete control of the property, its management and/or sale.
- C. A summary of the gift acceptance and the donor's charitable intent will be provided to the Bishop, Vicar-General, and Director of Development by the Director of Planned Giving.

1. The charitable intent of the donor must be honored regarding the net proceeds from the sale of the property or the remaindermen of a gift annuity.
- D. The Director of Planned Giving will keep a historic file of all transactions and communication regarding any real estate offered to the Catholic Foundation whether the donation is accepted or rejected.
1. The Director of Planned Giving will monitor and document, through conversation with the Director of Financial and Administrative Services any major movement in selling the property and the results of the sale.

REAL ESTATE SURVEY

I. Ownership (full names and addresses of all owners; please use back of page if necessary)

Name _____

Address _____

Telephone: Home () _____ Work () _____

Type of ownership _____ sole owner _____ joint tenancy _____ general partnership
_____ limited partnership _____ corporate ownership
_____ owned by trust

II. Location of Property

Street _____

City _____ County _____ State _____

Zip code _____

III. Financial and Title Information

How did you acquire property? _____ Purchased _____ inherited or as a gift

Date you acquired property: _____ Purchase price: \$ _____

Is property mortgaged? _____ Amount of unpaid mortgage: \$ _____

Any liens or encumbrances? If so please describe: _____

Any pending litigation with regard to the property? If so please describe: _____

Do you have a recent appraisal? _____ Appraisal date: _____

Appraised (or approximate) market value of property: \$ _____

Amount of annual taxes: \$ _____ Date(s) due: _____

Land area (acres or sq. ft.): _____ Building (sq. ft.): _____

Do you have title insurance? _____

Company: _____

Policy number: _____

Please provide a copy of the policy

Zoning: _____

IV. Building (s)

Please check **YES** or **NO** as to the condition of the building(s). **YES** means you **are aware** Of any problems in the last five (5) years; **NO** means you **are not aware** of any problems in the last five (5) years. Please indicate if/when any problems have been addressed.

| | | YES | NO | DATE REPAIRED |
|----|-------------------|------------|-----------|----------------------|
| A. | Foundation/slab | _____ | _____ | _____ |
| B. | Basement: | | | |
| | Water | _____ | _____ | _____ |
| | dampness | _____ | _____ | _____ |
| | sump pump | _____ | _____ | _____ |
| C. | Roof leaks | _____ | _____ | _____ |
| D. | Furnace | _____ | _____ | _____ |
| E. | Electrical | _____ | _____ | _____ |
| F. | Plumbing | _____ | _____ | _____ |
| G. | Asbestos | _____ | _____ | _____ |
| H. | Termites | _____ | _____ | _____ |
| I. | General structure | _____ | _____ | _____ |

V. Environmental

| | YES | NO |
|---|------------|-----------|
| A. History of property | | |
| 1. Property has <i>PRIOR</i> or <i>CURRENT</i> use for industrial, commercial, agricultural, manufacturing, waste disposal or any other non-residential purposes. | _____ | _____ |
| B. Condition of property | | |
| 1. Discoloration, oil sheens, or foul/unusual odors in water | _____ | _____ |

- | | YES | NO |
|---|------------|-----------|
| 2. Storage drums | _____ | _____ |
| 3. Above or underground storage tanks; vent or filler pipes | _____ | _____ |
| 4. Evidence of oil or other chemicals in the soil | _____ | _____ |
| 5. Evidence of PCBs | _____ | _____ |
| 6. Evidence of toxic air emissions | _____ | _____ |
| 7. Flood plain/wetlands/drainage | _____ | _____ |
| 8. Endangered plants or wildlife | _____ | _____ |

C. Adjacent properties

1. Properties adjacent or close to your property have conditions
Requiring a **YES** answer to any questions in (A) or (B) above. _____

If yes, please indicate which letters or numbers from above:

VI. General Evaluation

| | YES | NO |
|---|------------|-----------|
| Are you aware of any other information concerning any part of the land or building(s) which might affect the decision of a buyer to buy, affect the value of the property or affect the use of the property by the buyer? | _____ | _____ |

If yes, please explain: _____

VII Rental or Leased Property Information

A. Income

1. Monthly rent/lease payment: \$ _____
 a. Due date: _____ b. Lease dates: _____
2. Other income from property (specify type and amount): _____

B. Expenses

1. Utilities (average monthly amount)-- Electric \$ _____
 Gas/Oil \$ _____ Water/Sewer \$ _____ Garbage if not included \$ _____

2. Services

- a. Caretaker/property manager \$ _____
- b. Landscaping/grounds maintenance \$ _____
- c. Common area charge (condominium) \$ _____
- d. Heating/cooling contract \$ _____
- e. Snow removal \$ _____
- f. Security \$ _____
- g. Swimming pool service \$ _____
- h. Other: _____ \$ _____

3. Maintenance/repairs \$ _____

4. Insurance \$ _____

VII. Acknowledgments

I/we hereby acknowledge that the above information is true and accurate to the best of my/our knowledge.

Owner _____

Date _____

Owner _____

Date _____

WHAT IS A QUALIFIED APPRAISAL?

The Appraisal Must Include:

1. Description of the property in sufficient detail for a person who is not generally familiar with the type of property to ascertain that the appraised item is the property that was contributed.
2. Date (or expected date) of contribution to the Diocese.
3. The terms of any agreement or understanding entered into (or expected to be entered into) by or on behalf of the donor (or the donee) that relates to the use, sale or other disposition of the contributed property, including any agreement that:
 - a. Restricts the Diocese's right to use or dispose of the donated property.
 - b. Reserves to, or confers upon, anyone (except the Diocese) any right to income from the donated property, or possession of the property, or the right to buy the property, or earmarks the donated property for a particular use.
4. Name, address and taxpayer identification number (TIN) of the qualified appraiser(s) who prepared the appraisal, and also the name, address, and TIN of the individual, partnership, or corporation (if any) that employs or engages the qualified appraiser.
5. Qualifications of the appraiser who signs the appraisal, including the appraiser's background, experience, education, and membership, if any, in professional appraisal associations.
6. Statement that the appraisal was prepared for income tax purposes.
7. Date (or dates) on which the property was valued.
8. Appraised fair market value of the property on the date (or expected date) of contribution
9. Method of valuation used to determine the fair market value and the specific basis for the valuation (e.g., any specific comparable sales transactions).

Appraisal Summary:

In addition to the qualified appraisal, an *appraisal summary* must be made on Section B of Form 8283; signed and dated by the Diocese; signed and dated by the qualified appraiser; and attached to the tax return on which the donor claims or reports the gift. This summary contains a declaration that the appraiser meets the requirements of a qualified appraiser, and understands that a false or fraudulent overstatement of value may subject the appraiser to adverse consequences.

Qualified Appraiser:

1. A qualified appraiser is defined as an individual who must:
 - a. be qualified to render the appraisal in question and whose qualifications must be stated in the appraisal report.
 - b. Either hold himself or herself out to the public as an appraiser or perform appraisals on a regular basis.
2. A person **can not** be a qualified appraiser:
 - a. if the donor has knowledge of facts that would cause a reasonable person to anticipate that the appraiser would falsely overstate the value of the donated property.
 - b. if he or she is one of these persons:
 - 1) the donor
 - 2) a party to the transaction in which the donor acquired the donated property, unless the property is donated within *two months* of acquisition by the donor, and the property's appraisal value does not exceed its purchase price.
 - 3) The recipient organization (Diocese or any of its entities).
 - 4) Any person who is:
 - a) employed by the Diocese or the donor
 - b) a sibling, spouse, ancestor, or lineal descendant of the donor
 - c) related through certain corporate, partnership, or trust arrangements to anyone described in 1) through 3) above.
 - 5) A person whose relationship with anyone described in 1) through 4) would cause a reasonable person to question his or her independence as an appraiser.

Other Rules Pertaining to Qualified Appraisals:

1. The qualified appraisal must be completed not more than sixty (60) days prior to the official transfer (donation) of the property – the signing over of the deed.
2. A qualified appraisal may be prepared by more than one appraiser. However, each appraiser must be a qualified appraiser.
3. The appraisal must be obtained *by the donor*
4. The appraisal fee can not be a percentage of appraised value.
5. If the diocese pays for the qualified appraisal:
 - a. It should be made clear on paper that the appraisal is being obtained by and prepared for *the donor*, not the Diocese.
 - b. The qualified appraisal report should state that there is no fee arrangement between the donor and the appraiser but that the fee is being paid by the Diocese.
 - c. The Diocese should report payment of the fee *as income to the donor* on IRS Form 1099 because payment of the fee represents discharge of the donor's legal obligation.
6. If the donated property is sold, exchanged or traded by the Diocese within two years of acceptance of the gift the Diocese must file Form 8282 with the IRS.

WHAT IS A PHASE ONE ENVIRONMENTAL ASSESSMENT?

Scope of Work:

1. *Chain of Title Documents* – A 75 year chain of title search which includes deeds, easements, leases, restrictions and covenants will be secured for each property. A reputable title company is usually secured on behalf of the Diocese.
2. *Aerial Photography Review*- An attempt to procure or review aerial photography from local soil conservation services, and county and city planning agencies is made.
3. *Recorded Environmental Clean-Up Liens*- will be included in the 75 year chain of title report.
4. *Database Review*-Reasonably obtainable state, federal or local databases will be procured and reviewed that include information on the following; Landfill and other treatment storage or disposal (TSD) locations; registered underground storage tanks (LUSTs); hazardous waste transporters and generators; and, spill reporting records. Other database information may also be included in the review phase of the investigation. The databases are reviewed to:

“...discover the presence or likely presence of a hazardous substance or pesticide, and whether a release or a substantial threat of a release of a hazardous substance or pesticide has occurred or may occur at, on, to, or from the real property.”¹
5. *Visual Site Inspection*- A site reconnaissance of each site will be conducted that will satisfy the following portion of Section 22.2 of the ACT:

“A visual inspection of the real property and all facilities and improvements on the real property and a visual inspection of properties immediately adjacent to the real property, including an investigation of any use, storage, treatment, spills from use, or disposal of hazardous substances, hazardous wastes, solid wastes, or pesticides. If the person conducting the investigation is denied access to any property adjacent to the real property, the person shall conduct a visual inspection of that property from the property to which the person does have access and from public rights-of-way.”

¹

Section 22.2 of the Illinois Environmental Protection Act (ACT)

1. *Business Record Review*-Review reasonable business records for activities at or on the property for a period of 75 years (if available).
2. *Environmental Assessment Report*- A formal report of the Phase I Environmental Assessment, which will include recommendations for additional investigation, if required will be prepared. Three copies of the report will be provided. Additional copies made available at additional cost.

Recommendations Beyond A Phase I:

The results of the assessment may recommend that additional Phase II tasks be required. These tasks, such as a subsurface investigation, groundwater quality assessment, asbestos-containing material (ACM) survey, etc., **are not** covered in the scope of work for the Phase I Assessment. The above scope of work **does not** include the collection and analysis of any air, water or soil samples. If the Phase I Assessment identifies problem areas that indicate further investigation, a recommendation for sample collection will be made in the report. A written proposal to perform a Phase II investigation can be requested by the Diocese and may include the collection, analysis and evaluation of additional environmental samples.