

THE SAN FRANCISCO CHRONICLE, SUNDAY, JULY 6, 2003

Giving It Away: Donations of Property Hot Item for Nonprofits

By **SCOTT BANERJEE**

THREE years ago, super-heated stock and IPO shares were warmly welcomed by nonprofit community foundations as wealthy donors gave a share of their equity in return for valuable tax deductions.

Then the Wall Street bubble burst. Today, the philanthropic world is counting on a source of equity: real estate.

"Real estate is the last highly appreciated asset that a gift officer earmarks for a major donor to give," said Chase Magnuson, president of Real Estate for Charities, a consulting firm in Carlsbad (San Diego County).

This trend is on the uptick in the Bay Area, where properties -- residential in particular -- have held their values over time. In the past three years, the East Bay Community Foundation has received 10 properties, including four gifts in 2002, which boosted the foundation's overall endowment by \$2.67 million.

One of the properties, a condominium at 300 Beale St. in San Francisco's SoMa district, was donated last December and is now managed through the foundation. The rental unit generates an income stream for a donor-advised fund that supports several agencies such as the Oakland Housing Authority, UC Berkeley, the Urban Land Institute Foundation, the Oakland-Alameda County Coliseum Foundation and Piedmont Education Foundation.

"Now we're lighting a few candles," said Jon Reynolds, the donor.

In 1998, the foundation created EBCF Properties, Inc., a separate nonprofit entity that acts to acquire, liquidate or manage the gifts of real property. Each year since its inception, gifts of real estate have increased.

Around the Bay Area, four of the five largest community foundations have taken similar steps.

"It's a good idea that brings a focus to potential donors that real estate is an option," said Chris Nicholson, vice president of the East Bay Community Foundation. Typically, more than nine-tenths of charitable donations to community foundations are given in the form of publicly traded stock and cash.

"This is the hot topic among community foundations around the country," said Thomas Peters, president and chief executive of the Marin Community Foundation, based in Novato, which formed a supporting organization, MCF Property Holdings Inc., in 1997.

The Peninsula Community Foundation held a presentation in May in Palo Alto to introduce its new Charitable Real Estate Fund. Nearly 100 financial planners, accountants and estate planning lawyers -- who are increasingly aware of the complex eligibility requirements and tax benefits of gifting residential and commercial real estate, as well as land -- attended the event.

Community Foundation Silicon Valley is set to unveil and market a supporting organization later this summer.

Community foundations can accept gifts of real estate without separate supporting organizations. But the property-holding supporting organizations serve as liability shields for properties containing environmental hazards and vehicles that can liquidate the property quickly.

With a separate board of directors, the property-holding affiliates can also pursue their own investment strategies, such as managing a property with an income stream or leasing discounted space to nonprofits, as the Marin foundation does with two 50,000-square-foot buildings in San Rafael.

Prior to unveiling its Charitable Real Estate Fund, the Peninsula Foundation had received four gifts of real estate valued at \$3.2 million. This value outweighs the foundation's year-to-date cash and stock donations.

Even as stock prices rebound, much of the United States' wealth will remain rooted in real estate, especially residential, and particularly in Silicon Valley. Fourth-quarter Federal Reserve numbers demonstrate that home equity, valued at \$7.6 trillion, outpaces corporate equity (\$4.2 trillion) and deposits (\$5.1 trillion).

"I think it may be the engine of intergenerational wealth transfer in our community over the next 20 to 30 years," said Terence Mulligan, director of outreach for the Peninsula foundation. Mulligan believes real estate donations will average at least 10 percent of total donations to the foundation in the coming years.

Community foundations with supporting organizations also exist in Los Angeles; San Diego; Boston; Kansas City; Portland, Ore.; Columbus, Ohio; Cleveland and Memphis. Other foundations are looking into the matter.

"We have gotten inquiries about setting up supporting foundations from at least a dozen other community foundations throughout the country," said George Bittner, head of the Kansas City Community Foundation's Real Estate Charitable Foundation.

According to Magnuson, without a supporting organization, the donor needs to provide an environmental impact study, as well as assemble a team including an estate-planning attorney, a certified public accountant and an appraiser. The foundation still needs to coordinate its gifts through another team of real estate, legal, financial and engineering experts. And still, foundation- wide liability issues remain.

The nation's largest community foundation, the New York Community Trust, does not have a separate supporting organization but has been processing gifts of real estate for two decades.

"It's complicated. You really have to know what you're doing," said Lorie Slutsky, president of the New York trust. "We've done it when it makes sense," she said, citing acceptance of a villa in Italy as one of the foundation's more complicated transactions.

According to Sandra Hernandez, president of the San Francisco Foundation, residential real estate gifts to the foundation annually comprise about two- thirds of real property gifts or bequests; often these are second homes or vacation homes.

"We're not in the property management business," she said.

In 2002, the San Francisco Foundation accepted three real estate donations and bequests - all residential -- totaling \$7.4 million, or 14 percent of its donations.

"The best result for a charity is to sell the property within a short period and use the proceeds to fund the charitable programs," said Jill S. Dodd, a San Francisco lawyer who has specialized in planned charitable giving.

This was the case with the 1266 Washington St. property, which the San Francisco Foundation received through a bequest from the National Trust for Historic Preservation after the owner's death.

"Any large charitable gift is complicated, with or without a supporting organization," said Dodd. "But when it works, it works beautifully."

"If donors can get a tax deduction for a cause they care about, it's the essence of what we do," said Peters.

Real estate gift opens door to tax deductions

Three common methods of donating real estate are straight gift, bargain sale and charitable remainder trust.

Once the gift transaction is complete, and depending on whether the property is sold, the donor can establish a fund and direct which nonprofit organizations will benefit.

-- A "straight gift" donation of real property generally allows the donor to obtain a charitable contribution income-tax deduction equal to the full value of the real property donated. This deduction is limited to the donor's equity in the property, which may be reduced by mortgage debt or liability and is generally limited to 30 percent of the donor's adjusted gross income.

In addition to a charitable income-tax deduction, the donor has an opportunity to avoid a capital gain tax.

-- A "bargain sale" is a part-gift, part-sale transfer of a property to a charity. The donor is entitled to a charitable contribution deduction equal to the difference between a property's fair market value and the amount received from the charity. The donor receives the difference in cash, but must pay tax, under a separate formula.

-- With a "charitable remainder trust," the most common form of real estate donation, the property is deeded into a trust, from which the donor receives an income stream for the donor's lifetime. The charity assumes title to the trust property asset when the donor dies.

Scott Banerjee is a San Francisco freelance writer.