

41.01 Real Property Gift and Bequest Acceptance

Approved February 27, 1995 (MO 44-95)

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1. Authority to accept gifts and bequests of real property is vested in the Board by statute and shall be exercised exclusively by the Board. Title to each property donated shall be held in the name of the Board of Regents. The donor may, at the time of acceptance by the Board, designate the intended use and purpose of the gift in addition to naming the benefiting university, agency, health science center or ~~other subunit~~~~department~~; however, unrestricted gifts may be used at the discretion of the Board. System Policy 21.05, *Gifts, Donations, Grants and Endowments* and System Regulation 21.05.01, *Gifts, Donations, Grants and Endowments* provide additional information on gifts and the requirements for acceptance.
 - 1.1 All interests in real property owned by the System will be controlled by the Board. Authority to act as an executor or trustee of real property to be conveyed to the System requires specific Board approval.
 - 1.2 Interests in the surface estate of real property ~~will~~may be accepted if such ownership will result in 100 percent interest in the property. Lesser interests ~~will~~may be accepted only if a clear benefit to the System can be demonstrated.
 - 1.3 Minority interests in minerals ~~will~~may be accepted regardless of size.
2. Gifts and bequests of real property ~~will~~may be accepted if the benefits exceed the risks, expenses and efforts required to hold, maintain, manage or dispose of the property.
3. Gifts or bequests of real property will not be accepted if donor restrictions place undue limitations on the System's ability to ~~acquire~~, manage, maintain, or dispose of the property unless:
 - (1) a clear potential for gain or benefit can be demonstrated; and
 - (2) a source of funds to meet all requirements is dedicated to that purpose.
4. Gifts or bequests of encumbered real property will not be accepted unless:
 - (1) a clear potential for gain or benefit can be demonstrated;
 - (2) a source of funds to meet all requirements is dedicated to that purpose; and

- (3) the terms of the encumbrance are acceptable ~~terms of the encumbrance exist.~~
5. All activities involving acceptance of a gift or bequest of real property shall be consolidated in the System Real Estate Office.
6. ~~It is preferred that A~~ survey and title policy should be ~~provided~~obtained at the time of acquisition. In the event the System provides the survey, and/or title policy, or both, ~~such acquisition~~the costs incurred by the System will be included in the minute order authorizing acceptance of the property.
7. ~~Should the donor intend to use the gift of real property for tax purposes, a recent appraisal and~~If the donor submits an IRS Form 8283 ~~will be submitted to the System Real Estate Office, the System Real Estate Office will acknowledge receipt of the donation after acceptance by the Board and return the original IRS form to the donor for review and for filing with the donor's income tax return. The donor must also provide a copy of a current appraisal with the IRS Form 8283.~~
8. Gifts of working interests in minerals or partnerships that create liabilities for unrelated business income taxes or operation of the partnership will not be accepted. However, the Board may direct proposed gifts of this nature to one of the appropriate external foundations associated with the System.
- ~~9. The fee simple interest in any holding of real property gifts or bequests will not be subordinated except in extraordinary circumstances.~~
- ~~109.~~ In the presence of restrictive covenants or deed restrictions, real property will not be accepted if such provisions could result in a loss or ~~derogation~~impairment of the System's title, except in extraordinary circumstances.
- ~~110.~~ All gifts of real property must be inspected, or caused to be inspected, by the System Real Estate Office prior to acceptance by the Board. An environmental ~~audit~~assessment must be conducted ~~to the~~in accordance with ASTM standards. The ~~audit~~assessment will make appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice.
- ~~111.~~ Gifts or devises of real property from private sources for the establishment of scholarships, professorships, or other trusts for educational purposes may be accepted, provided such property will not hereafter require educational and general funds appropriations by the Legislature for operation, maintenance, repair, or construction of buildings.
12. Unless exempt, all gifts and bequests of real property to the System are subject to the Rules and Regulations of the Texas Higher Education Coordinating Board.

13. In addition, for each transaction, legal forms and documents shall be reviewed and approved for legal form and sufficiency by the Office of General Counsel. Positive recommendations from the following officials are required for each acceptance:

- (1) Component ~~Chief Executive Officer~~~~Institution President or Director~~
- (2) Director of the System Real Estate Office
- (3) ~~Executive Vice Chancellor for Finance~~~~Vice Chancellor for Business Services~~
- (4) Chancellor

CONTACT OFFICE: The System Real Estate Office