



ROMAN CATHOLIC
DIOCESE OF ROCHESTER

Gift Acceptance Policy

Promulgated to Pastors, Pastoral Administrators, Directors of Campus Ministry, Superintendent of Catholic Schools, Diocesan Director of Catholic Charities, Regional Executives of Catholic Charities, President of St. Bernard's School of Theology and Ministry on February 24, 2003, effective date of this policy March 18, 2003.

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ROMAN CATHOLIC DIOCESE OF ROCHESTER

GIFT ACCEPTANCE POLICY

October 1, 2002

Preamble

In order to protect the interests of the Roman Catholic Diocese of Rochester and on behalf of affiliated agencies such as parishes, schools and Catholic Charities (hereafter referred as the Diocese) and the persons and other entities who support its programs, these policies are designed to assure that all gifts to, or for the use of, the Diocese are structured to provide maximum benefits to all parties. The Church has the right to acquire, retain, administer and alienate temporal goods in pursuit of its proper objectives (Canon 1254, §1). One of the ways the Church acquires temporal goods is by gift. The canons of Book V of the Code of Canon Law govern the acquisition, retention, administration and alienation of temporal goods by the church.

This document will focus on both current and deferred gifts, with special emphasis on various types of deferred gifts and gifts of non-cash property. The goal is to encourage funding of the Diocese without encumbering the Diocese with gifts that may prove to generate more cost than benefit or which are restricted in a manner that is not in keeping with the goals of the Diocese. Therefore, the Diocese reserves the right to refuse any gift. Donors will always be encouraged to seek independent professional legal and tax counsel prior to making a gift. The Diocese endorses the concept that a donor should expect to be informed of the Diocese's mission, of the way it intends to use donated resources, and of its capacity to use donations effectively for their intended purposes, to be assured their gifts will be used for the purposes for which they were given, to receive appropriate acknowledgement and recognition and to feel free to ask reasonable questions when making a donation and to receive prompt, truthful and forthright answers. While the Diocese may provide general information about the tax treatment of charitable gifts, the Diocese is not authorized to provide tax advice to the donor. The donor is advised to consult with his or her own tax advisor.

It is understood that except where stated otherwise, these policies are intended as guidelines, and that flexibility must be maintained since some gift situations can be complex, and decisions are only made after careful consideration of a number of interrelated factors including the "related use" issue. Therefore, these policies will in some instances require that a gift acceptance committee consider the merits of a particular gift and final decision be made only by that body or its designee. Gifts can be restricted and the understanding must be set forth in writing.

Outright Gifts

A. Cash

- Gifts in the form of cash and checks are accepted regardless of amount.
- All checks should be made payable to the Diocese with the proper designation if intended for a specific program or entity. The check shall in no case be made payable to an employee, agent or volunteer for the credit of the Diocese.
- While unrestricted contributions are encouraged, any donor has the option to restrict some or all of his or her gift to a specific program or use that is compatible with the mission of the Diocese.
- The donor will be credited with the full amount of his or her cash gift.

B. Publicly Traded Securities

- Securities that are traded on the New York Stock Exchange or NASDAQ or other readily marketable securities may be accepted. The policy states that stock will be sold immediately, unless the gift acceptance committee or its designee decides otherwise.
- While unrestricted contributions are encouraged, any donor has the option to restrict some or all of his or her gift to a specific program, project or use.
- The donor will be credited with the fair market value of the stock, determined by taking the mean of the highest and lowest selling price on the date of the gift.
- If an endorsed stock certificate, or an unendorsed stock certificate with a stock power, is mailed to the Diocese or the Diocese's agent, the gift date is the date of mailing. If it is hand delivered to the Diocese, the date of the gift is the date of delivery. If the donor delivers his or her stock certificate to his or her bank or broker, or to the issuing corporation, for transfer into the Diocese's name, the date of the gift is the date on which the transfer is made on the corporation's books.
- Donors whose gifts are matched by a company will receive credit for the matching amount.
- If the donor is an officer or director of the issuing corporation, staff should inquire as to whether any Securities and Exchange Commission (SEC) Rule 144 restrictions apply which limit the Diocese's ability to sell the donated securities.

C. Closely Held Securities

- Non-publicly traded securities may only be accepted after approval of the gift acceptance committee, or its designee. Such securities may be subsequently disposed of only with the prior approval of the gift acceptance committee or its designee. No commitments shall be made for the repurchase of such securities by the Diocese prior to the completion of a gift of securities.
- Any amount is welcome, provided the stock may be readily sold or is likely to be redeemed.
- While unrestricted contributions are encouraged, any donor has the option to restrict some or all of his or her gift to a specific program, project or use that is compatible with the mission of the Diocese.
- The donor will be credited with the appraised fair market value of the stock, or an estimated value if an appraisal is not available.
- A qualified appraisal is required for all gifts of closely-held stock valued in excess of \$10,000. Such gifts must be reported on Section B of Form 8283 which is filed with the donor's federal income tax return.
- If a Form 8283 is required, a Form 8282 will be filed by the Diocese if the stock is sold within two years of receipt.

D. Real Property

- Real property gifts will be accepted at the discretion of the Diocese after a review of all relevant factors, including, but not limited to, the resale potential of the property and any environmental concerns or hazards. Because of the complexities and issues involved with real property gifts, they must be carefully considered and, therefore, the Diocese has adopted a set of procedures. A copy of the Diocese's Real Property Gift Procedures is set forth as Appendix A.
- In general, residential real estate located outside the continental United States will not be accepted as a gift. The gift acceptance committee or its designee may make exceptions to this policy if conditions warrant.
- Real estate shall not be accepted to fund a charitable gift annuity under the laws of New York State. Special attention shall be given to the receipt of real estate encumbered by a mortgage, as the ownership of such property may give rise to unrelated business income for the Diocese, and disqualification of certain split interest gifts unless handled in a proper manner.

- Due diligence concerning environmental concerns shall be considered before accepting any gift of real estate. This may involve conducting an environmental audit of the property.
- The gift acceptance committee or its designee is empowered to make exceptions on a case-by-case basis.
- Appraisals are required for all gifts of real property valued in excess of \$5,000. The donor must complete Section B of Form 8283 and file it with his or her federal income tax return.
- If a Form 8283 is required, a Form 8282 will be filed by the Diocese if the real property is sold within two years of receipt.
- Gifts of real property will be credited and recognized at the appraised value of the property at the time it is transferred to the Diocese, less the amount of any outstanding encumbrances on the property.

E. Tangible Personal Property

- Jewelry, artwork, collections and other personal property shall not be accepted unless the employee, agent, or volunteer working on behalf of the Diocese shall have reason to believe the property has value in excess of \$500, and they may be used, or readily sold, by the Diocese. Such property can only be accepted by the gift acceptance committee or its designee.
- No personal property shall be accepted unless there is reason to believe the property can be quickly disposed of or it has a use related to the mission of the Diocese. No personal property shall be accepted that obligates the Diocese to ownership of it in perpetuity unless it has a use related to the mission of the Diocese. No perishable property or property which requires special facilities or security to properly safeguard will be accepted without prior approval of the gift acceptance committee or its designee.
- Notwithstanding the foregoing, if there is reason to believe the personal property has a value of \$5,000 or more, it may only be accepted after receipt and review by the gift acceptance committee or its designee, of an appraisal qualified under terms of the Internal Revenue Service governing gifts of property of this type.
- If a gift of appreciated tangible personal property relates to the Diocese's exempt purposes and will be used by the Diocese, the donor can deduct the full fair market value of the property. If the gift is for an unrelated use, or for a related use but is sold immediately, the donor's deduction is limited to his or her cost basis.

- A donor may provide that a gift of tangible personal property be used by the Diocese for its exempt purposes. If the Diocese accepts the gift, it will provide the donor with a written acknowledgment that the property will not be put to an unrelated use.
- Gifts of tangible personal property will be credited and recognized at the current appraised value of the property at the time it is transferred to the Diocese. If the property has not been appraised, an estimated value will be used.
- If the gift is valued in excess of \$5,000, donors will be required to complete Section B of Form 8283 and to file it with their federal income tax returns.
- If a Form 8283 is required, a Form 8282 will be filed by the Diocese if the property is sold within two years of receipt.
- Items donated for special events, to be consumed, used for prizes, auctions or designated for special use (such as books or computers) shall generally be exempt from this section.

F. Other Property

- Other property of any description including mortgages, notes, copyrights, royalties, and easements, whether real or personal, shall only be accepted by action of the gift acceptance committee or its designee.

G. Limited partnerships will not be accepted.

Deferred Gifts

A. Bequests

- Gifts made through Wills (bequests) are actively encouraged by the Diocese. In the event of an inquiry by a prospective legator, representations as to the future acceptability of property proposed to be left to the Diocese in a will or through any other deferred gift arrangement shall only be made in accordance with the terms and provisions outlined in the previous section.

B. Charitable Remainder Trusts

- A charitable remainder trust is a trust which provides for the payment of an “income” interest or other specified amount to an individual or other non-charitable beneficiary for a life or lives or for a specified number of years. Upon expiration of this period, the trust principal is distributed to the Diocese. There are two types: the charitable remainder annuity trust and the charitable remainder unitrust.

- The following information regarding charitable remainder trusts is for general informational purposes only and is subject to change as the federal tax law is amended, revised and interpreted from time to time. The donor must consult with his or her own tax advisor.
- A charitable remainder annuity trust provides for the annual payment of an annuity (a fixed dollar amount not less than 5% or greater than 50% of the initial net fair market value of the property placed in the trust); thus, the beneficiary receives a fixed amount for the term of the trust.
 - a) The minimum funding level is to be set by the trustee.
 - b) The statutory minimum annuity percentage is 5%; the statutory maximum percentage is 50%. The charitable deduction will not be allowed when the probability that the trust assets will be exhausted before the term of the trust expires exceeds 5% or when the value of the charitable remainder with respect to any transfer to the trust is less than 10% of the initial fair market value of the property transferred to the trust. Generally, an annuity percentage of no more than 7% is preferred.
 - c) Funding is generally limited to cash and marketable securities; closely-held stock may be used if it can be readily sold or redeemed in time to make the required annuity payments.
 - d) Because a charitable remainder trust is tax-exempt, it may sell highly appreciated assets and reinvest the proceeds with no intervening tax liability; therefore, funding the trust with highly appreciated securities is attractive to donors. While earnings retained by a charitable remainder trust are not taxed to the trust, distributions to a non-charitable beneficiary may be taxable depending on the nature of the earnings.
 - e) A donor is entitled to an income tax deduction equal to the present value of the Diocese's remainder interest.
 - f) There is no minimum or maximum age requirement, but charitable remainder annuity trusts are generally recommended for older donors.
 - g) For crediting purposes, where the donor (if he or she is a life beneficiary of the trust) and any other life beneficiary are 65 or older, the donor will be credited with the full fair market value of the assets used to fund the trust; if they are younger than 65, the donor will be credited with the actuarial value of the Diocese's remainder interest as determined for federal income tax purposes.
 - h) Additional contributions to annuity trusts are expressly prohibited.
 - i) At this time, the Diocese will not serve as Trustee.
 - j) The Diocese, if requested, will recommend a trustee. The Diocese will seek to have the power to change the trustee at any time.

- k) The trustee will be responsible for signing any Form 8283 filing the corresponding Form 8282 if the donated property is sold within two years of receipt.
- A charitable remainder unitrust provides for an annual payment of an amount equal to a percentage (at least 5% but not more than 50%) of the annually determined fair market value of the trust assets; thus, the unitrust amount fluctuates each year based on the fair market value of the trust principal. A unitrust may include an income-only option under which the beneficiary receives the unitrust percentage or trust income, whichever is less.
 - a) The minimum funding level is set by the trustee.
 - b) The statutory minimum unitrust percentage is 5%; the statutory maximum percentage is 50%. The 5% probability test does not apply, but the 10% minimum benefit requirement does apply. That is, the value of the charitable remainder with respect to any transfer to the trust must be at least 10% of the initial fair market value of the property transferred to the trust. Generally, a unitrust percentage of no more than 7% is preferred.
 - c) Funding of a straight unitrust is generally limited to cash and marketable securities; if illiquid or hard-to-value assets are used to fund the trust (such as real property or closely-held stock), an income-only unitrust or a “flip” unitrust should be used.
 - d) If real property is used to fund a charitable remainder trust, it must not be encumbered by a mortgage or other indebtedness. See separate Real Property Gift Procedures attached as Appendix A.
 - e) Because a charitable remainder trust is tax-exempt, it may sell highly appreciated assets and reinvest the proceeds with no intervening tax liability; therefore, funding the trust with highly appreciated assets is attractive to donors.
 - f) A donor is entitled to an income tax deduction equal to the present value of the Diocese’s remainder interest.
 - g) There is no minimum or maximum age requirement, but charitable remainder unitrusts are generally recommended for older donors.
 - h) For crediting purposes, where the donor (if he or she is a life beneficiary of the trust) and any other life beneficiary are 65 or older, the donor will be credited with the full fair market value of the assets used to fund the trust; if they are younger than 65, the donor will be credited with the actuarial value of the Diocese’s remainder interest as determined for federal income tax purposes.
 - i) Additional contributions to a unitrust are permitted.
 - j) At this time, the Diocese will not serve as Trustee.

- k) The Diocese, if requested, will recommend a trustee. The Diocese will seek to have the power to change the trustee at any time.
- l) The trustee will be responsible for signing any Form 8283 required for the donor's contribution, and for filing the corresponding Form 8282 if the donated property is sold within two years of receipt.

C. Charitable Lead Trusts

- A charitable lead trust provides for the payment of "income" to the Diocese for a predetermined period of time, usually a term of years. After the time period ends, the trust principal is paid to non-charitable beneficiaries, normally the donor's children or grandchildren. Thus, unlike a pooled income fund, charitable remainder trust or charitable gift annuity, a charitable lead trust confers a benefit to the Diocese during its initial years and the trust principal is retained for private purposes. There are two types: the charitable lead annuity trust and the charitable lead unitrust.
- A charitable lead annuity trust provides for the annual payment of a fixed annuity to the Diocese for the term of the trust.
 - a) The minimum funding level is set by the trustee.
 - b) There is no requirement that the annuity percentage be at least 5% of the net fair market value of the assets used to initially fund the trust.
 - c) Because a charitable lead trust is not tax-exempt, it generally should not be funded with highly appreciated assets; cash or only slightly appreciated securities should be used.
 - d) A donor is generally not entitled to an income tax charitable deduction for funding a charitable lead annuity trust; the trust is created for transfer (estate and gift) tax savings.
 - e) Because a charitable lead annuity trust is generally for a term of years, no minimum or maximum age requirements apply.
 - f) A donor to a charitable lead annuity trust will be credited with the full amount of the annuity multiplied by the term of the trust.
 - g) The Diocese will not serve as trustee of a charitable lead annuity trust.
- A charitable lead unitrust provides for the annual payment of a fixed percentage of the annually determined fair market value of the trust assets to the Diocese for the term of the trust.
 - a) The minimum funding level is set by the trustee.

- b) There is no requirement that the unitrust percentage be at least 5% of the net fair market value of the assets used to initially fund the trust.
- c) Because a charitable lead trust is not tax-exempt, it generally should not be funded with highly appreciated assets; cash or only slightly appreciated securities should be used.
- d) A donor is generally not entitled to an income tax charitable deduction for funding a charitable lead unitrust; the trust is created for transfer (estate and gift) tax savings.
- e) Because a charitable lead unitrust is generally for a term of years, no minimum or maximum age requirements apply.
- f) A donor to a charitable lead unitrust will be credited with the present value of the Diocese's income interest as determined for federal estate or gift tax purposes.
- h) The Diocese will not serve as trustee of a charitable lead unitrust.

D. Pooled Income Fund

- The Diocese does not at present offer a Pooled Income Fund.

E. Charitable Gift Annuities

- A charitable gift annuity is a promise by the Diocese, given in exchange for money or marketable securities, to pay a fixed sum of money for life to the donor and/or other annuitant. The Diocese has made the requisite filings with the New York State Insurance Department to issue charitable gift annuities in New York State. The Diocese will only accept annuities for entities for which the Bishop is President; and the Sisters of Mercy of the Americas, Regional Community of Rochester, and the Sisters of St. Joseph of Rochester, Inc.
- Gift annuities may be issued only in exchange for cash or marketable securities. An annuity cannot, for example, be issued in exchange for real property, insurance, or closely-held stock.
- The minimum funding level is \$10,000, \$5,000 for an additional gift annuity by an individual who has previously entered into a gift annuity agreement.
- The annuity rate will never exceed the rate established by the Committee on Gift Annuities (CGA) based on the age(s) of the annuitant(s).
- The CGA rates increase with the age of the annuitant.
- The Diocese will not issue gift annuities to donors less than 65 years of age without the prior approval of the gift acceptance committee.

- All gift annuity agreements issued by the Diocese will conform with the standardized gift annuity agreements approved by the New York State Insurance Department.
- It is the Diocese's current policy to retain all donated funds in the annuity reserve account until the related annuity obligations end. An amount representing the then value of the donor's contribution will be removed from the reserve account upon the death of the annuitant(s). The donor may restrict the use or uses to which the annuity funds are to be used, by a separate letter of understanding between the Diocese and the donor.
- The Diocese is required to annually file with the Internal Revenue Service and the donor Form 1099-R.

F. Life Estate Gifts

- Gifts of real estate by which the donor retains a life estate interest are not common and require careful consideration both by the donor and the Diocese. Personal residences and farms qualify for favorable tax treatment for this type of gift. The residence may be the donor's principal residence, a second residence or vacation home.
- Such gifts are subject to approval by the gift acceptance committee or its designee in situations where the asset appears to be a minor portion of the donor's wealth, and the committee is satisfied that there has been full disclosure to the donor of the possible future ramifications of the transaction and that other guidelines concerning gifts of real estate have been complied with.
- The donor is entitled to an immediate income tax deduction for the present value of the Diocese's remainder interest.
- Where the donor and his or her spouse (if applicable) are 65 or older, the donor will be credited with the full appraised value of the property; if they are younger than 65, the donor will be credited with the actuarial value of the Diocese's remainder interest as calculated for federal income tax purposes.
- Appraisals are required for all gifts of real property valued in excess of \$5,000. The donor must complete Section B of Form 8283 and file it with his or her federal income tax return.

G. Gifts of Life Insurance

- The assignment of an existing life insurance policy in any amount is welcome, as is naming the Diocese as the irrevocable beneficiary of the policy or purchasing a policy in the name of the Diocese.

- The donor may specify that all or a portion of the proceeds be restricted to a specific program, project or use. This restriction shall be made in a separate letter of understanding between the Diocese and the donor.
- For income tax purposes, the donor's deduction is limited to the lesser of the donor's cost basis in the policy (i.e., the gross amount of premiums paid, less dividends and any outstanding loans on the policy) and the policy's value.
- Fully paid or functionally equivalent life insurance policies which are assigned to the Diocese will be credited at the net cash surrender value of the policy as irrevocable gifts.
- The assignment of a policy which is not paid up ordinarily will be credited at the net cash value of the policy; subsequent premium payments will be added to the value credited.
- Donors will be reminded that they must obtain an appraisal for gifts of insurance valued in excess of \$5,000 and Section B of Form 8283 must be completed and filed with their federal income tax returns.
- If a Form 8283 is required, a Form 8282 will be filed by the Diocese if the insurance is surrendered for its cash value within two years of receipt.

H. Retirement Benefits

- The Diocese may be designated as the beneficiary under a donor's Keogh (HR-10) plan, 401(k) plan, 403(b) annuity or individual retirement account (IRA) or a commercial annuity.
- Retirement benefits may be the most tax-efficient way to make a gift to the Diocese provided that the gift is correctly structured. In most cases, retirement benefits are subject to income tax when paid out. However, since the Diocese is exempt from income tax, retirement benefits can be paid to the Diocese at the death of the account owner without being subject to any income tax. Retirement benefits can be left directly to the Diocese upon the death of the account owner or can be left to a charitable remainder trust which names the Diocese as the remainder beneficiary. In the latter case, the account owner leaves the retirement benefits to a trust which names another individual as beneficiary for life or for a term of years. Upon the death of the income beneficiary, the balance of the charitable remainder trust is paid to the Diocese. Unfortunately, a lifetime gift of retirement benefits – whether directly to the Diocese or to a charitable remainder trust of which the Diocese is the remainder beneficiary – does not provide the same benefits as a gift effective upon death. A lifetime gift is treated as a distribution which is subject to income tax before the Diocese would receive any of the benefits.
- Although the Diocese is appreciative of such gifts, donors will not be credited with any value because of the uncertainties involved.

Payment of Fees Related To Gift

A. Finder's Fees or Commissions

- The Diocese will pay no fee to any person as consideration for directing a gift to the Diocese. It is understood that such fees may or may not be legal and that in the case of irrevocable deferred gifts that involve management of assets, the payment of such fee may subject the Diocese and its management to federal and state security regulation.

B. Professional Fees

- The Diocese will pay reasonable fees for professional services rendered in connection with a completed gift accepted by the Diocese. Such fees will be paid only with prior written approval of the gift acceptance committee or its designee and the donor.
- Fees must be reasonable, and directly related to the completion of a gift and be limited to: 1) appraisal fees by persons who are competent and qualified to appraise the property involved and who have no conflict of interest, 2) legal fees for the preparation of documents, and analysis of tax implications, 3) accounting fees incident to the transaction, and 4) fees of "fee for service" financial planners. In the case of financial planners, such persons must affirm in writing that they are compensated through fees for service and that they are not compensated for the sale of products to clients. In the case of legal, accounting and other professional fees, an attempt shall be made by the gift acceptance committee or its designee to ascertain the reasonableness of these fees prior to payment.
- In cases where the persons receiving fees were initially employed by the donor and the Diocese is asked to pay the fees involved, the donor shall be notified that the payment of such fees might result in taxable income to the donor in the amount of the fees paid.
- In situations where advisors retained by the Diocese prepare documents and/or render advice in any form to the Diocese and/or a donor, it shall be disclosed to the donor that the professional involved is in the employ of the Diocese and is not acting on behalf of the donor and that any documents or other advice rendered in the course of the relationship between the Diocese and the donor should be reviewed by counsel for the donor prior to the completion of the gift.

Restrictions

A. Restrictions on Use and Investment of Gifts

- No restrictions on how gifts may be used by the Diocese will be honored without prior approval of the gift acceptance committee or its designee in the case of current gifts or subsequent approval by the gift acceptance committee or its designee in the case of gifts received by will or other gift that is effective at death that has not been previously approved by the gift acceptance committee or its designee.
- Any gifts involving creation of permanent endowments and/or “naming opportunities” must meet certain minimum funding criteria and be approved by the gift acceptance committee or its designee.
- All such gifts must involve a letter of agreement signed by the Diocese and the donor.

Gift Valuation and Accounting

There are three points at which gift valuation is important. The first is the valuation of the gift for tax purposes. These rules are clearly established in the Internal Revenue Code. The second is the valuation of the gift for gift credit purposes. Some gifts will be recorded at the donor’s date of gift value. The third is the value of the gift on Diocese’s books, governed in most instances by the Financial Accounting Standards Board (FASB) rules, specifically SFAS 116.

It is the responsibility of the Diocesan Finance Office and Office of Stewardship and Development to insure the proper and timely filing of IRS Forms 8282 and 8283 in connection with non-marketable gifts of greater than \$5,000.

Gift Acceptance Committee

The Roman Catholic Diocese of Rochester Gift Acceptance Committee is comprised of the chairs of the Finance, Investment and Development Committees of the Stewardship Council, a member of the Diocesan Planned Giving Committee as well as the Vicar General of the Diocese of Rochester, senior representatives from the Diocesan Finance, Legal, and Stewardship and Development Offices. The gift acceptance committee will be a standing committee on the Stewardship Council and will make periodic reports to the Stewardship Council.

Members, other than Diocesan staff, are chosen by the Bishop and serve a three year term, renewable once. The committee meets as required and its decisions are arrived at by majority vote. The Vicar General will serve as the designee of the committee.

The gift acceptance committee can modify and change these policies with the approval of the Bishop of the Roman Catholic Diocese of Rochester.

APPENDIX A

ROMAN CATHOLIC DIOCESE OF ROCHESTER POLICY AND PROCEDURE FOR POTENTIAL GIFTS OF REAL ESTATE

I. AUTHORITY TO NEGOTIATE

The Director of Stewardship and Development will have the overall authority to handle inquiries, negotiate with donors, assemble documentation, retain appraisers, surveyors, realtors and other technical consultants, and prepare agreements on behalf of the Diocese. However, the Gift Acceptance Committee of the Diocese or its designee must formally accept any gift of real estate prior to its transfer.

II. EVALUATION OF POTENTIAL GIFTS

A. **Property and Report Form:** Upon initial inquiry, potential donors will be asked to complete a property inquiry form and return it to the Diocese with appropriate maps and documentation. (A sample is included as Appendix B.)

B. **Liens, Mortgages and Encumbrances:** Property which is subject to liens, unpaid mortgages, deeds of trust, judgment liens, unpaid taxes or assessments, mechanics' liens or other encumbrances will be accepted only in exceptional circumstances and upon advice from the Diocese's legal counsel. If accepted, property, which is subject to encumbrances, will be evaluated as a "bargain sale" (a bargain sale is an arrangement whereby a donor offers property to the Diocese for an amount less than its current fair market value). Properties subject to encumbrances will be considered for acceptance only if evaluation convincingly demonstrates that the property can be sold at a price that exceeds the aggregate amount of the encumbrances and any costs associated with satisfying them.

C. **Field Evaluation:** If initial information indicates that an offer is serious and if the property seems potentially profitable, a member of the Diocese staff or an authorized representative will visit the property. A representative may be a local realtor or person as the Director of Stewardship and Development may deem appropriate. The purpose of the visit will be to determine the nature and type of the property and to identify any potential problems not evident from initially supplied information that would hinder or prevent the Diocese's sale of property.

D. **Market Evaluation:** Whenever practicable, arrangements will be made to have a realtor analyze the property to evaluate the existence of a market for such property. The Director of Stewardship and Development may, at his/her option, request that the donor provide such an evaluation from a realtor acceptable to the Director of Stewardship and Development.

E. **Expense Budget:** The Diocese's staff will prepare for the Gift Acceptance Committee a budget outlining all the projected expenses associated with the acceptance of any proposed real estate gift.

III. RESPONSIBILITIES OF THE DONOR

A. The donor will be responsible for obtaining a qualified appraisal complying with IRS regulations for the purposes of establishing the value of the gift for federal income tax purposes, including the preparation of Form 8283 (“Noncash Charitable Contributions”) See Treas. Reg 1.170A-13(a).

B. For nonresidential property, the donor must obtain, typically at the donor’s expense, an environmental audit satisfactory to the Diocese. No property will be accepted if there is a likelihood of any liability that could attach to the Diocese as a result of its taking title to the property.

C. The donor must furnish the Diocese with evidence of title that shows that title to the property is free and clear except for current real estate taxes and restrictions of record that would not create any economic burden on the Diocese.

D. It is the donor’s responsibility to prepare the deed and other instruments that are necessary to transfer the property to the Diocese. All proposed the Diocese’s legal counsel prior to acceptance by the Diocese must review transfer instruments.

E. Prior to acceptance of the property, the Diocese and the donor must agree in writing on arrangements for paying expenses associated with the property, such as commissions, real estate taxes, utilities, insurance, and maintenance costs. Generally, the Diocese will not advance funds for the payment of such expenses.

F. Donors will be encouraged to discuss contemplated bequests of real estate before finalizing their wills. Property that is bequeathed to the Diocese will be evaluated in accordance with this Policy and Procedure like all other gifts of real property.

IV. PROCEDURE FOR ACCEPTING REAL ESTATE

A. After the requirements of this Policy and Procedure have been satisfied, only the Gift Acceptance Committee of the Diocese or its designee will have the authority to accept a gift of real property.

B. The Director of Stewardship and Development may refuse any offered gift of real property that is judged not to be in the best interests of the Diocese. The Bishop or his delegate makes the judgment after review by the Gift Acceptance Committee or its designee.

C. Prior to or upon transfer of title to the Diocese, the donor and the Diocese will sign an agreement (approved by legal counsel) stating the terms of the gift, which shall specify that there are no restrictions on the Diocese’s right to use or convey the property.

D. Prior to agreeing to accept the gift of real estate, the Diocese will obtain title certification. At the time of acceptance, the Diocese will obtain title insurance in an amount equal to the appraised value of the property. When deemed appropriate, the Diocese may accept written indemnification by the donor in lieu of title insurance.

E. The Diocese will not seek exemption from real estate taxes for donated real estate, unless the property is put to use furthering the Diocese's charitable purposes and mission.

V. MARKETING AND SALE OF REAL ESTATE

A. After accepting a real estate gift, arrangements will be made to sell the property through a qualified real estate professional. With due consideration given to Canons 1291 – 1295.

B. While it is anticipated that in most circumstances the sale price will equal or exceed the appraised value of the property, the terms of the sale will take into account current market conditions, availability of financing and other factors. Any offer that is below seventy percent (70%) of the appraised value must be approved by the Director of Stewardship and Development after review by the Gift Acceptance Committee or its designee.

C. In the case of a sale within two years of the date of the gift, the Diocese will report the actual sales Proceeds to the IRS on Form 8282 ("Donor Information Return").

VI. REAL ESTATE GIFTS BY BEQUESTS

A. Donors will be encouraged to discuss contemplated bequests of real property before finalizing their wills. Property that is bequeathed to the Diocese will be evaluated like all other gifts of real estate.

B. Upon becoming aware that the Diocese has been named to receive a gift under any Will that has been admitted to probate or any trust arrangement, the Director of Stewardship and Development will contact the executor, trustee, or other legal representative of the estate, and determine if the Diocese's gift consists of land or, if the Diocese is a residuary beneficiary of the estate, whether the residue passing to the Diocese will contain any land.

C. If the Diocese will or may receive land in satisfaction of the gift, the Director of Stewardship and Development will ask the executor, trustee, or other legal representative to conduct an environmental study similar to the one that the Diocese would require if it were to receive an inter-vivos gift. If the executor, trustee, or other legal representative has not made the study and if it does not do so, the Diocese should make its own study or decline to accept the gift.

VII. WHAT THE DIOCESE WILL NOT DO

A. Except in extraordinary circumstances, the Diocese will not pay for legal assistance, appraisals or other services on behalf of the donor.

B. The. Diocese will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction.

ROMAN CATHOLIC DIOCESE OF ROCHESTER CHECKLIST OF DESIRED ITEMS IN CONNECTION WITH CONSIDERATION OF ACCEPTANCE OF REAL ESTATE DONATION

1. Exact legal name of donor and federal identification number.
2. Description of property (copy of deed).
3. Description of any buildings or other structures located on the land.
4. Boundary survey of property with location of all structures, easements, and encumbrances appearing on the face of the survey.
5. Information regarding existing zoning status.
6. Information on all ingress/egress for the property.
7. Description of prior use of the property.
8. Description of use of surrounding property, with specific disclosure of any storage tanks or potential environmental factors affecting the property.
9. Disclosure of any contemplated or anticipated condemnations, right-of-ways or other actions by municipalities that may affect the subject property.
10. Phase I environmental report on the property, including environmental report on any structures located on the real estate, unless waived by counsel for a gift of residential property.
11. Evidence of title, such as title examination and report, title insurance commitment, or schedule describing any liens, encumbrances, or title matters affecting the property.
12. Copy of appraisal showing the fair market value of the property current within sixty days.
13. Disclosure of amount of existing real estate taxes, insurance premiums, and assessments attributable to the property.
14. Discussion with proposed donor regarding any special arrangements for donor's fund or other sources to address ongoing expenses for taxes, insurance, assessments, maintenance, grass cutting, security, utilities, and similar items.

APPENDIX B

Real Property Gift Inquiry Form

I. Ownership: (full names and addresses of all owners, use additional pages, if necessary):

Name: _____
 Address: _____

Telephone: (Business) () _____ (Home) () _____

Type of ownership: _____ Sole; _____ Joint; _____ General Partnership;
 _____ Limited Partnership; _____ Community Property

Does ownership include mineral rights, water rights, any restrictive easements, covenants, etc.?

II. Location:

Street address _____

City _____ County _____ State _____

How is the property designated on the tax maps? _____

What is the nearest large town or city? _____

Distance from nearest large town or city? _____

Directions from nearest large town or city _____

III. Financial and title information:

How did you acquire this property? _____

How long have you owned this property? _____

What did you pay for property? _____

Is there an unpaid mortgage? _____ (Yes) _____ (No)

Amount of unpaid mortgage \$ _____

Please describe any liens or encumbrances _____

Is there any pending litigation with regard to the property? If so, please describe:

Are there tenants on the property? _____ (Yes) _____ (No)

Annual rental income \$ _____

Do you have a recent appraisal? _____ (Yes) _____ (No)

Appraisal date _____ Appraised (approximate) market value \$ _____

Please provide a copy of the appraisal, if possible.

Amount of annual taxes \$ _____ When are taxes due? _____

Zoning? _____

Has the property been the subject of any regulatory designations (such as wetlands)? If so, please list type of designation and regulatory agency:

Do you have title insurance? _____ (Yes) _____ (No)

Name of title insurance company _____

What is policy number? _____. Please provide a copy of the policy, if available.

Have any insurance claims been made with regard to the use of this property? If so, please describe.

IV. Description: _____ Residence; _____ Vacant Land;
 _____ Condominium; _____ Rental;
 _____ Commercial; _____ Other

Number of acres: _____ Approximate dimensions: _____

Boundaries (roads, water, development, etc.) _____

Natural features (vegetation, water, geological formations, etc.) _____

Improvements (buildings, roads, utility easements, etc.) _____

Wildlife: Please list wildlife which has been identified on property with emphasis on rare or endangered species.

Usage: Please give a brief history of how property was used before and during your ownership.

Is the property benefited by any rights of way of easements? _____

Please describe: _____

Describe uses on adjacent parcels _____

V. Disposition: Do you intend to convey this property to _____ Diocese either through your will or during your lifetime?

_____ (Yes) _____ (No)

How can _____ Diocese make arrangements to have a representative visit the property?

VI. Supporting Information: Please attach any information that will help _____ Diocese evaluate the property, such as:

_____ topo map _____ tax map _____ aerial photo

_____ soil survey _____ survey _____ latest tax notice

NOTES