

Fight for Your Rights (to Party) Like a Beneficiary

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Steven G. Bell

Senior Vice President and Wealth Strategist
Ferguson Wellman Capital Management

Rochelle Makela-Goodman

Assistant Vice President of Gift Planning
OHSU Foundation

Surprise Party

- Carefully curated planned gifts eventually come to be realized – does it align with the institution's expectations?
- Estate plans may be amended, assets may grow, shrink, or change.
- Some gifts may be a complete surprise.
- Be ready for adventures in fact finding.
- Timelines may be longer than you think.

SURPRISE!

Party Rules

- Beneficiaries are entitled to notices, accountings, and information.
- Determine the nature of the gift – specific bequest or residuary?
- Common to delay most gifts until completion of probate and filing of estate tax returns.
- The Charitable Activities Section of the Department of Justice is an aligned interested party.
- Think carefully about taking responsibility or assets in kind.

**HOUSE
RULES**

Dress For The Occasion

- To know what to expect, focus on the source of the transfer.
- From an **Estate**
 - Court supervised process, regimented information sharing, rigid timelines
- From a **Trust**
 - Flexibility in distributions, defined rights to information, less formality
- By **Beneficiary Designation**
 - Limited help from fiduciaries, separate from estate or trust

FORMAL
OR
INFORMAL?

Be Resourceful

- Who has authority? Personal Representative, Trustee, or other person?
- Finding documents – consider likely locations and who may access.
- Ask the advisors – attorney, CPA, or financial advisors may have records or copies.
- Copies and harmless errors – partial records and copies *may* be enough.
- Be persistent! If your organization is a beneficiary, you are entitled to information to protect your interests.

ASK THE
RIGHT
QUESTIONS

Better Yet, Be Prepared

- **Communicate** to your donors the importance of sharing details of their planned gift
- Assure **confidentiality**
- OK that **plans change**
- Accurate **record-keeping** and capture details
- Correspondence from donor (legacy society forms, testamentary gift agreements, email)
- Other: event attendance, response cards, contact/visit reports



READY

Case Study: Missing Invite

- Donor confirms significant gift of entire estate over decades
- No next of kin, POA, PR known
- Donor's residence burglarized shortly after death; financial files targeted
- No Will was ever found
- Charity attempts to establish standing – engages legal counsel
- Records subpoena (all contact reports, testamentary gift agreement, event attendance, legacy society participation...)

Outcome: Intestate

STILL
LOOKING

Case Study: Fashionably Late

- Rumors of our beneficiary status preempt official notification
- Charity is beneficiary of residual estate
- Co-Trustees
- Trustees hired and fired counsel multiple times
 - ✓ Concerns about mis-management; poor communication; trustee conflict of interest
 - ✓ Communicated that expenses would be closely monitored
 - ✓ Concerns of diminishing value of the estate

SOON...

Case Study: Trust Your “Friends”?

You suspect that your charity is a beneficiary of an IRA

- Check your records for copies of beneficiary forms or information from donor
- Contact the PR or Trustee
- If you know the custodian, contact them; if unknown:
 - Check for probate filings; contact personal representative
 - Review unclaimed property databases (in all states where suspected custodian operates)



TRUST ME

Case Study: Party Favors

Informed that your charity is the beneficiary of illiquid assets

- Real property (land, buildings, oil/mineral/water rights)
 - Private investments (stock, business interests)
 - Promissory notes, mortgages
 - Art & collections
- **Estimated Value?**
 - **Plan for liquidation?** Before or after distribution?
 - **Taking the lead as the fiduciary? – proceed with caution!**

WILL YOU
HELP CLEAN
UP?

Questions?

