

MEDICAL COLLEGE *of Georgia* **FOUNDATION**



Policy Statement

Procedures for Accepting

Real Property

Revised and Approved by
Medical College of Georgia Foundation, Inc.
Board of Directors – Real Estate Committee
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Introduction

Many gifts received by the Medical College of Georgia Foundation, Inc. (MCGF) are gifts of real property. Also, in furtherance of our mission, MCGF may acquire interests in real property by non-gift means. MCGF markets gifts of real property. The proceeds are used for the charitable purposes specified by donors. The following policies have been adopted by the MCGF Board relating to the acceptance, management, and liquidation of real property. All appropriate inquiries will be made concerning the condition of real property, including marketability, carrying costs, and environmental risks, prior to acquisition by MCGF in any capacity. The following requirements must be met for the acquisition of any interest in real property, in any capacity, *prior to* acceptance or recording of any documents:

Staff Site Visit and Analysis

For all real property interests to be received by MCGF, the MCGF President and CEO, or his or her designee, will inspect the real property. MCGF will review all required documentation.

MCGF Staff will analyze the following, among other things:

1. market conditions for resale or the ultimate disposability of the property;
2. the condition of any improvements located on the property;
3. current and potential zoning, land use, and concurrency issues;
4. any costs associated with holding the property for resale; and
5. other considerations specific to the acquisition of the property.

MCGF Staff will consult with MCGF's Legal Advisor as appropriate.

General Warranty Deed

Title will be transferred to MCGF by general warranty deed unless transfer is by a trustee, personal representative, or other fiduciary who will provide a deed with warranties appropriate to its capacity. MCGF's legal advisor will review all deeds.

Appraisal

The IRS requires the donor to obtain an appraisal if the value of the real property is over \$5,000 and the donor wishes to claim a charitable contribution income tax deduction. For proper accounting, marketing, and donor recognition purposes, an appraisal is requested for all real property gifts. In the absence of an appraisal, the real property will initially be recorded at \$1.00 (one dollar).

Title Search and Title Insurance

A title search may be required for any real property transaction. A title search and title insurance will be required for gift acquisitions of mortgaged property and all non-gift acquisitions.

Owner's Affidavit

An owner's affidavit in a form approved by the Real Estate Committee is required for all real property acquisitions.

Survey

A survey may be required for any real property transaction. A survey will be required for gift acquisitions of mortgaged property and all non-gift acquisitions, unless MCGF Staff and Legal Advisor determine existing surveys or drawings are adequate.

Real Property Taxes and Other Carrying Costs

Evidence must be provided by the donor that all real property taxes and other carrying costs are paid and current. Donors will be encouraged to pay all or prorate the taxes and other carrying costs for the year of the donation.

Mortgaged Property

MCGF rarely accepts mortgaged property and never accepts mortgaged property into a charitable remainder unitrust. Real property may be acquired subject to a mortgage, if the mortgage is current and assumable and only following Real Estate Committee approval. Prior to acceptance:

1. a clearly established method for the payment of the debt must be determined;
2. an MAI appraisal will be required; and
3. the loan-to-value ratio must be not more than 50 percent.

Leases

When real property is acquired subject to a lease, leases must not be in default and must be assignable by the landlord. Commercial property acquired subject to a lease will only be accepted following Real Estate Committee approval. Following approvals, and upon transfer of the property, the leases must be assigned to MCGF and all deposits, advance rents, and other monies transferred to MCGF or otherwise accounted for as required by law.

Special Deed Clauses

The Real Estate Committee and Real Estate Team must approve in advance any special deed clauses.

Environmental Requirements

No interest in real property, whether outright, in trust, by bequest, as a secured interest, or otherwise, will be accepted by or on behalf of MCGF without first complying with the following procedures:

1. An environmental review as described below shall be performed on every potential real property asset prior to acceptance by MCGF. The environmental review will be performed by the person or firm selected by the Real Estate Committee (approved consultant). Each environmental review will be reviewed and approved by the MCGF President and CEO and MCGF's Legal Advisor.

Residential, Rural, or Agricultural: For real property located in a developed residential community, a rural area, or an agricultural area, an Environmental Risk Assessment will be performed by an approved consultant.

Industrial: For real property located in a developed area where manufacturing or any class of industrial activity may have taken place, a Phase I audit will be performed by an approved consultant.

High Risk Operations: For real property with present or past high risk operations, a Phase I audit will be performed by an approved consultant.

2. If the environmental review indicates areas of significant concern, an additional investigation, including a Phase I, Phase II, or Phase III audit, as recommended, will be performed by an approved consultant prior to acceptance of the real property.
3. If the above procedures disclose risk of liability, the real property will only be accepted with the approval of the MCGF Real Estate Committee.
4. All contracts for environmental audits will be prepared and reviewed by MCGF's Legal Advisor.
5. The donor will be encouraged to pay for any assessments and audits.

Unsolicited Deeds

Unsolicited deeds will not be accepted. Upon the receipt of an unsolicited deed, the MCGF President and CEO will immediately notify the grantor (in writing) that the real property has not been accepted and will not be accepted until the requirements of this policy are met, and the deed will be returned to the donor.

Special Types of Acquisitions

In addition to the above requirements, the following types of real property require additional items *prior* to acquisition:

Properties Valued at Less than \$10,000

For real property valued at less than \$10,000, the donor must pay all costs of transfer to MCGF, including those incurred through environmental assessments and title searches, and all real estate taxes. For purposes of complying with the \$10,000 limit, real property value will be determined either by an appraisal, the ad valorem tax-assessed value, or determination by MCGF Staff.

Real Property Given to Fund Charitable Gift Annuities

Real property will not be accepted to fund charitable gift annuities.

Time Share Units

Time-share units will not be accepted by MCGF.

Procedures for the Sale and Management of Real Property Gifts

1. The MCGF President and CEO is authorized to charge routine property carrying expenses such as taxes, insurance, maintenance, travel, surveying, engineering, title examination and closing, and other costs to the Georgia Health Sciences University (GHSU) unit

benefiting from the real property. These expenses will be reported regularly to the appropriate fund administrators.

2. MCGF Staff will diligently work to obtain the best price and terms in the shortest amount of time for all real property. However, real property may be held for the production of income or appreciation after consultation with all interested parties and approval of the MCGF Real Estate Committee.
3. MCGF Staff will attempt to have all properties listed or for sale at all times.
4. No referral fee will be paid to any broker securing a gift of real property. Special consideration may be given to the procuring broker when listing the real property for sale, provided any such agreement to list is nonbinding on GHSU and the fees are not in excess of customary local fees.

Use of Brokers

1. MCGF is encouraged to provide all brokers equal access to its real property inventory. This will not preclude the use of exclusive listings.
2. Whenever possible, MCGF will solicit recommendations regarding local brokers and the general marketing effort from local MCGF Board members, friends of GHSU, and the donor.
3. The payment of fees to brokers when they are principals is discouraged, unless it is the local custom. In such an event, the fee will be reduced by the proportion of the broker's interest in the transaction.

Real Property Sold Without Signed Listing Agreements

1. MCGF will use all normal means of marketing—including signs, advertising, brochures and open listings — in their efforts to market real property.

2. MCGF Staff will attempt to negotiate reduced fees when the brokers present buyers arising from in-house marketing efforts.

Listing Price Determination

1. Real property will be listed at not less than the approved price. The approved price will be determined by either of the following:
 - a. If a qualified appraisal, dated within two years, is available, MCGF will set the approved price at not less than the value contained in the appraisal. If no appraisal is available, or file appraisals are more than two years old, MCGF Staff will attempt to determine market value via market inquiry, competitive market analysis, or updated or new appraisals and will recommend an approved price at that price. At least once a year, the MCGF Real Estate Committee will approve the approved price for all real property holdings.
2. For internal record keeping, if no appraisal is provided, then the real property will be entered on the books (book value) for \$1.00 (one dollar). A reasonable time will be allowed for the donor to provide an appraisal. If an appraisal is received, book value will be adjusted accordingly.

Acceptance and Execution of Contracts

1. The MCGF President and CEO will review and comment upon each contract prior to its presentation to either the MCGF Real Estate Committee for review. Other contracts require MCGF Real Estate Committee approval prior to execution by MCGF.
2. MCGF Staff will seek the advice of MCGF Real Estate Committee members when negotiating sales contracts.
3. The Secretary of MCGF's Board of Directors, or his or her designee, will keep minutes of all actions of the MCGF Real Estate Committee.

4. If sales are financed, they will be subject to the approval of the Real Estate Committee.

Mortgage Modification

1. Requests for modifications to mortgages held by MCGF will be considered by the Real Estate Staff upon:
 - a. written request submitted by the borrower, which describes the terms to be modified; and
 - b. evidence that real estate taxes are current.
2. Real Estate Committee approval will be required.
3. The borrower will pay for all costs associated with the modification, including:
 - a. Document modification fee (which includes recording fees and preparation of renewal promissory note and mortgage modification); and
 - b. title update and endorsement to title policy (or new title policy if none exists) acceptable to the Legal Advisor.
3. All mortgages will contain or be modified to include the then standard loan document terms, including:
 - a. 5 percent late fee after 10 days;
 - b. payment due date of the first of the month; and
 - c. environmental indemnity.

Leasing

Leases with MCG

1. MCGF staff may negotiate leases with MCG at less than market or nominal rents, provided the use of the real property (1) is non-profit and in furtherance of GHSU objectives and MCGF's mission and (2) does not result in any cost to MCGF. The leases may not result in a negative cash flow to MCGF unless GHSU agrees in writing, in advance, to underwrite the losses.
2. All leases will be negotiated and executed in accordance with the policies and procedures of the Board of Regents.
3. MCGF's Legal Advisor will review and approve all such leases prior to execution.

Other Leases

1. Upon approval of the lease by the MCGF President and CEO, MCGF is authorized to execute leases that are within the following guidelines:
 - a. a base lease term of no more than 5 years;
 - b. renewal options which, together with the base term, do not exceed 10 years;
 - c. appropriate rent escalator clauses for all renewal options; and
 - d. total rent for the base term of no more than \$50,000.
2. All leases entered into by MCGF will be reported to the MCGF Real Estate Committee at its next meeting.
3. Any lease that does not meet all of the above guidelines will require MCGF Real Estate Committee approval.

4. MCGF Staff may delegate leasing and management functions to outside professional management firms when deemed appropriate.

Management and Transfer of Real Property

All real property held by MCGF in any capacity will be managed in a manner designed to comply with all federal and state regulations and to minimize or eliminate any liability resulting from hazardous materials. The sale or transfer of real property by MCGF will be handled in a manner designed to eliminate any future liability by MCGF for hazardous substance remediation. MCGF will fully disclose to a prospective transferee any and all information concerning the condition of any hazardous substances existing on the real property. MCGF may convey title to real property only by means of a special warranty deed or (where appropriate) a trustee's deed without warranties or quitclaim deed.

Non-Discrimination

MCGF will not discriminate or condone discrimination in its real property activities. MCGF will conduct all affairs in compliance with all applicable state and federal Equal Opportunity, Fair Housing, Equal Credit Opportunity, and other antidiscrimination laws.

Exceptions

Upon written request by the MCGF President and CEO, exceptions to these policies and procedures will be considered on an individual basis by the MCGF Real Estate Committee.