

The Story of a Gift: Art With a Purpose

When a benefactor donated a valuable art collection to a community foundation through a charitable remainder unitrust, he was able to fund important causes, leave a charitable legacy, and continue to draw an income for life.

Immanuel Kant, the 18th-century German philosopher, approvingly declared art to be without utility, but an Oregon philanthropist is looking to give his own art collection a broader purpose. The philanthropist, an avid collector of American art who wishes to remain anonymous, gifted paintings and other works on four separate occasions to the Oregon Community Foundation. In a move that benefits both the organization and the donor, art that could have been donated to a museum instead will be used to help the homeless, while the patron draws an income through a charitable remainder unitrust. This judicious gift might inspire others to put their art to new uses.

Canny Decisions

“The donor has a strong interest in the local art museum and might have made his gift to it, but he decided to pursue his philanthropic interests and provide food, shelter, clothing, and encouragement for the homeless,” explains James Draznin, charitable gift planner for the Oregon Community Foundation.

As Draznin explains, the anonymous benefactor began to build his collection in the 1960s, focusing on American artists, including Frank Stella, Andy Warhol, and Jean-Michel Basquiat, before they were well known to the general public. As a result of canny decisions made over the course of several decades—and a booming art market in which art regularly fetched record prices at auction—pieces purchased for as little as \$4,000 came to be assessed at well over \$500,000.

The collector, finding himself in possession of highly appreciated works of art, elected to chart an unusual course of action. Counseled by his attorney, he contributed a Frank Stella painting to a charitable remainder unitrust, naming the Oregon Community Foundation trustee and one of the Foundation’s funds as remainderman.

In making the donation to a community foundation rather than a museum, the donor did not benefit from an income tax deduction for the market value of the artwork, approximately \$800,000. The deduction merely covered the purchase price of the painting: \$4,000. “Donors of ‘tangible personal property’ such as art can only declare the fair market value of their gifts for income tax deductions if the donee [receiving nonprofit organization] puts the property to ‘like use,’” says Draznin. He suggests, “That’s why collectors typically contribute art to museums.”

Advantages of the Unitrust

Nonetheless, the unitrust afforded several decisive advantages. Nearing retirement, the donor possessed high-value assets in his art, but he lacked holdings that would produce

dividends to cover his daily expenses. “Over the course of his life he amassed a remarkable collection of art, but perhaps not a great deal of IBM stock,” observes Draznin. While he could sell pieces of his art collection to meet his expenses, he would then have to pay capital gains tax on the substantial amount by which the art had appreciated in value. Giving the art to a charitable remainder trust allowed the trust to conduct the sale, thereby avoiding the capital gains tax.

The trust—established through a stand-alone agreement set up by the donor and the Oregon Community Foundation—works as follows:

- The trust pays out a set percentage of the entire assets of the trust to the donor each year for the remainder of his life.
- Assets remaining in the trust after the death of the donor will be used to create a permanent philanthropic fund.
- Ninety percent of the remaining assets will be used to provide assistance to the homeless or help them transition to stable housing.
- The Oregon Community Foundation will put the remaining 10 percent of the earned income toward the support of animal welfare, a request made by the donor.

By establishing a unitrust rather than an annuity trust, the donor was able to make additional gifts to the trust over the course of several years. To date, he has donated five works of art, including paintings by Jean-Michel Basquiat and Robert Gober, and also a parcel of real estate. The total market value of these gifts exceeds \$4.9 million.

The Donor, Trustees, and the Gift

As with any charitable remainder trust, trustees administer the gifts and make all decisions regarding the art and subsequent investments. In this case, however, the trustees recognized the donor as a resource of invaluable knowledge that they could not approximate without his assistance. “He’s very knowledgeable about art and has the professional contacts,” Draznin observes. Thus, the community foundation consulted the donor during the sales in an effort to maximize the price commanded by the art once it reached the market.

In this way, the donor and the Oregon Community Foundation maintain a mutually beneficial relationship even after the donor has relinquished control of a valuable asset. In other ways, too, the two parties worked together to maximize the philanthropic potential of the donor’s gift.

Not least important to the gift’s impact was its timing. The donor gifted the works of art when their value in the market was high rather than eroded, as is sometimes the case with owners who donate to charity gifts that have ceased to fit into their own lives or failed to find a robust price on the open market.

Philanthropy With a Purpose

The gift to the charitable remainder unitrust enabled the donor to merge his twin interests: collecting art and helping others. Where once he volunteered to work with transition programs assisting individuals without access to healthcare or housing, now his art will support such programs for generations.

Thoughtful philanthropy, careful management, and a strategic approach to the art market transformed objects of beauty into objects of use, yielding benefits to the donor, the foundation, and the community at large.

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