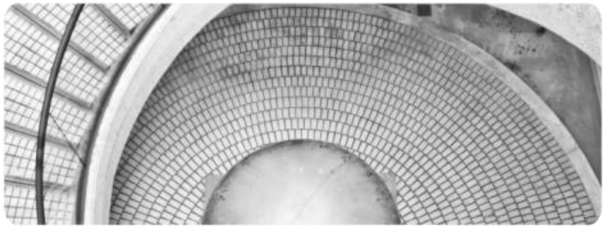

KASPICK & COMPANY
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Accepting Real Estate: Real Life Scenarios

Colorado Planned Giving Roundtable 28th Annual Summer Symposium

Timothy Prosser, Relationship Manager
August 25, 2016

Session Objectives

- ❑ Recognize real estate gift opportunities
- ❑ Understand the risks to your institution and how they can be minimized
- ❑ Learn to manage donor expectations

Greater confidence in securing real estate gifts

Types of Property

Residential
Owner-occupied or rental

Vacation property

Undeveloped land

Industrial

Commercial
Office or retail

Agricultural

Gifts of Real Estate

Challenges

Complex; involve some risk; require time, expertise, and effort

Rewards

More gifts; larger gift sizes; “success breeds success”

Note: Based upon data collected and analyzed by Kaspick & Company and its experience in working with clients.

Median Gift Asset Values: Trusts
All Kaspick & Company Clients (2005–2015)

Cash: $100,000

Real estate: $400,000

Securities: $147,005

Other: $319,630

Note: Median gift size for all new trusts created 2005–2015

Why Donors Fund Life Income Gifts with Real Estate

Motivations

No longer want to manage property

Personal reasons necessitate move

Right buyer has come along

Campaign gift

Do not foresee further appreciation

Planning Objectives

Avoid capital gains tax

Increase income

An outright gift is too much

The Real Estate Gift Process

1 Discovery & qualification

1. Understand donor motivations
2. Analyze the property

2 Gift structuring

3. Develop the gift plan
4. Accept the gift

3 Gift execution

5. Fund the gift
6. Manage and sell the property
7. Administer and invest the gift

What Are the Challenges?

- Lack of expertise
- Screening out bad proposals
- Managing many issues simultaneously
- Overcoming institutional reservations due to previous bad experience(s)
- Overcoming organizational inertia and generating energy for an uncommon gift

Who Can Help You?

Real estate specialist on staff

Your legal counsel

Trustees, volunteers, friends

Network of brokers, appraisers

Preferred Vehicle: Flip Unitrust

Trust “flips” January 1
following property sale

Net Income Unitrust

Donors

- Contribute property to the trust

Charity trustee

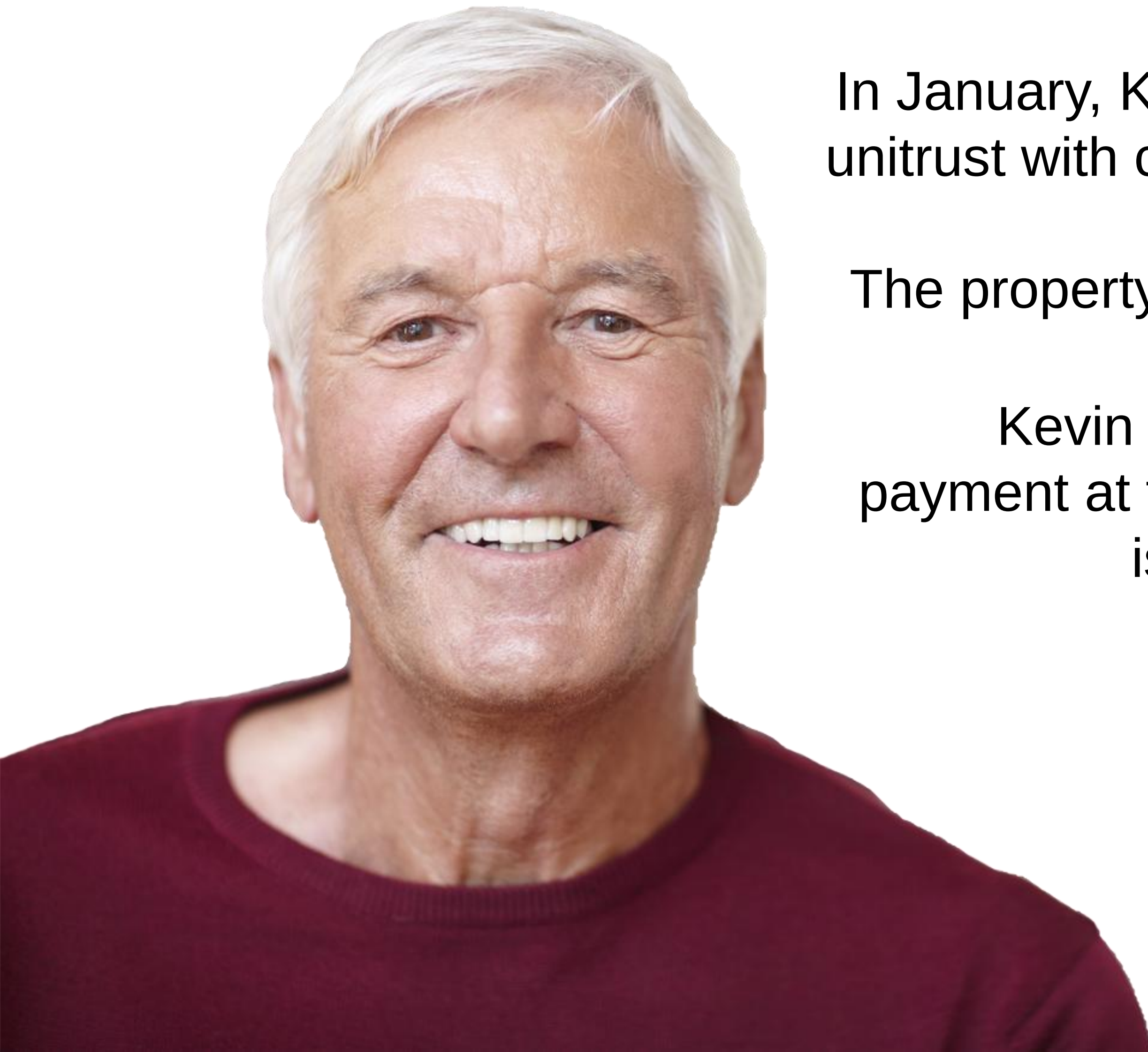
- Distributes net income (if any) to the beneficiary
- Markets and sells the property
- Invests trust assets following the sale

Standard Unitrust

Charity trustee

- Invests trust assets
- Distributes fixed percentage of the annual market value to the beneficiary

Scenario: Flip Trusts Funded With Real Estate

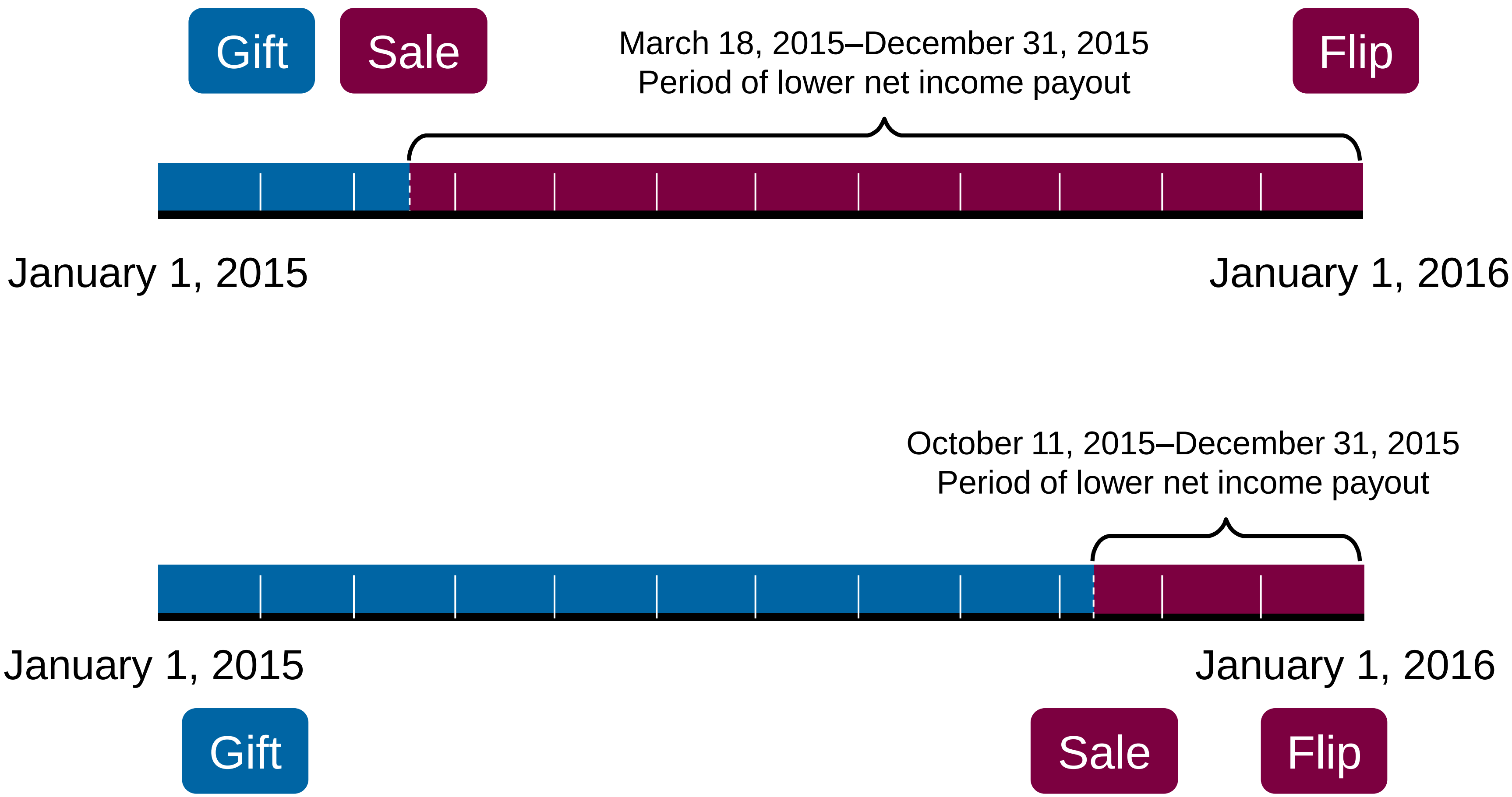


In January, Kevin funds a 6% flip unitrust with commercial property yielding 8%.
The property sells in late March.

Kevin receives his second payment at the end of June and is very disappointed.

What happened?

Timing Issue



Good Practices

Educate the donor about:

- The mechanics of the trust
- Income levels during the pre-flip period

Manage the donor's expectations

Consider which trust provisions to include:

- Define income to include post-gift capital gains
- Include a make-up provision
- Give the trustee discretion to allocate expenses to income or principal
- Include short-term gains distributions as income

Interest Rates Drive Income Distributions

Source: Federal Reserve.

Alternate Vehicle: Gift Annuity

1

Donor

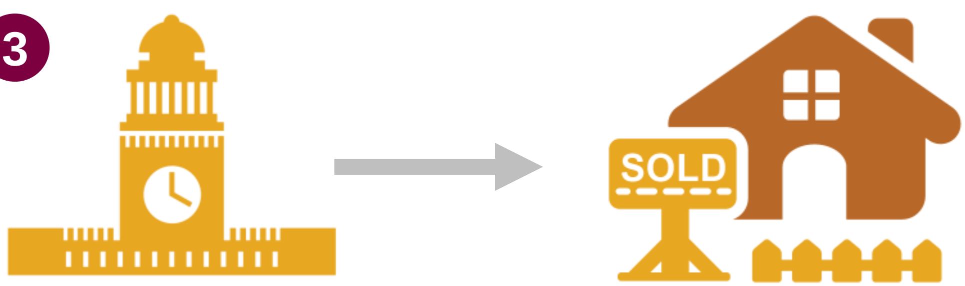
Charity

Typically deferred

2

Annuity rate usually discounted to reflect lack of liquidity and selling costs

3



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$$$

Prior to sale, charity must fund payments and possibly the state reserve account

Using a Gift Annuity Instead of a Flip Unitrust

+

Simpler for the donor

Sometimes an annuity payment is more appropriate for the donor

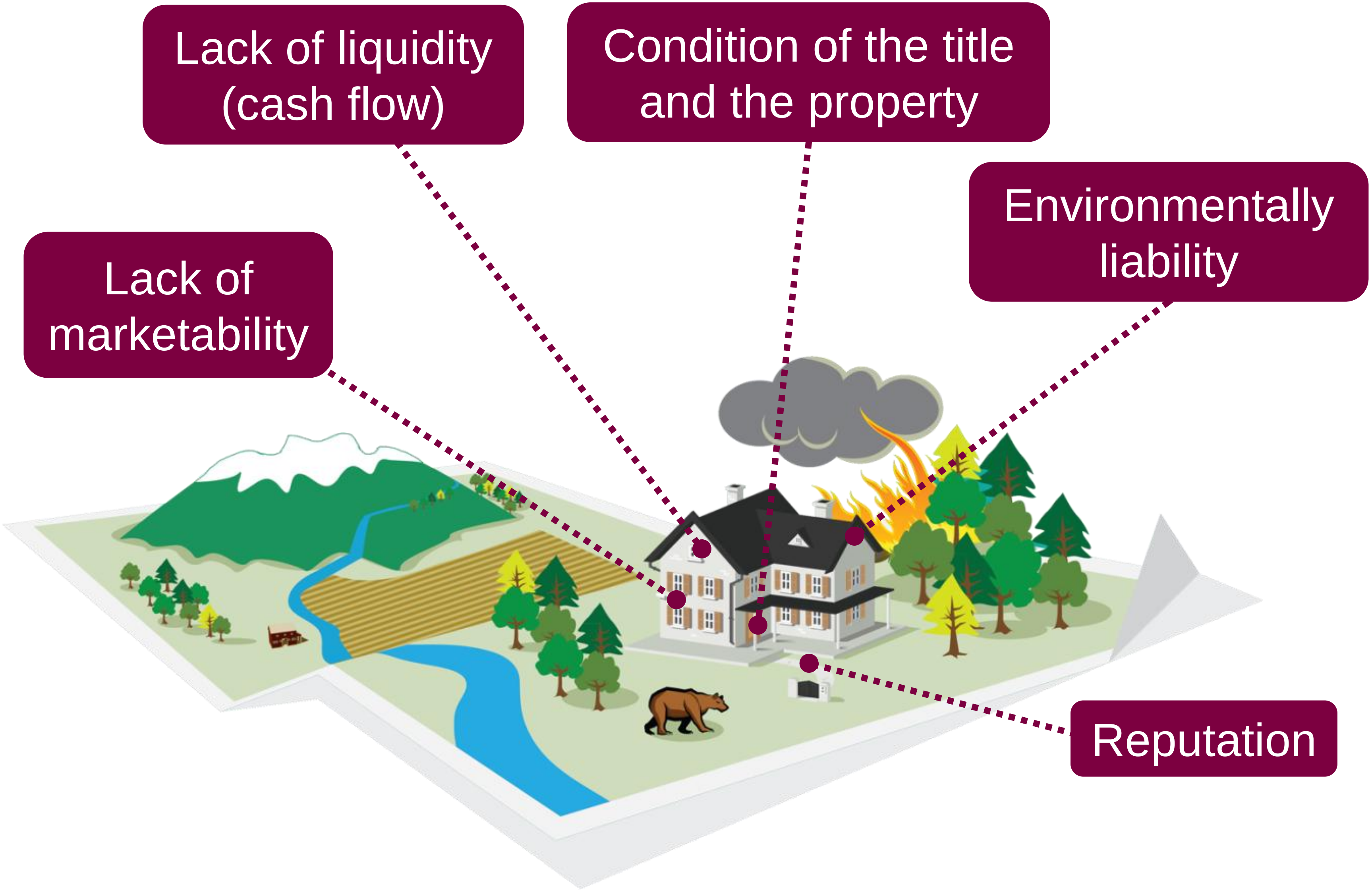
−

Higher risk for the charity

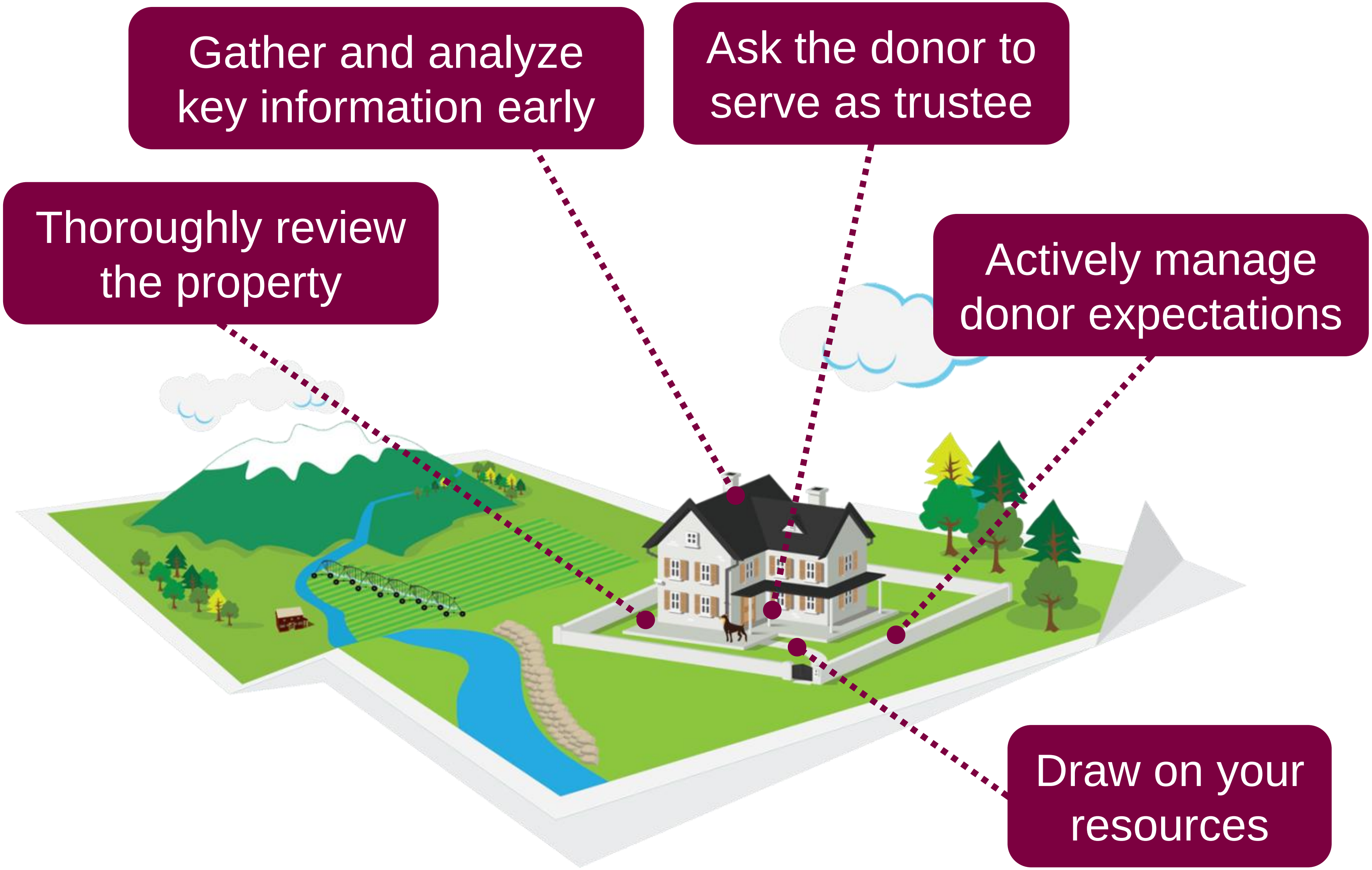
More difficult gift acceptance process

Accuracy of property evaluation and assessment of marketability is more critical

Risks for Your Institution



How Can You Reduce the Risks?



Screening Out Bad Gifts
Issues to Cover in the First Contact

- ✓ Type and use of property
- ✓ How the property is titled
- ✓ Estimate of property value and marketability
- ✓ Whether there is any debt
- ✓ Ask for copies of
  - Deed granting property to donor
  - Most recent tax bill with assessed valuation

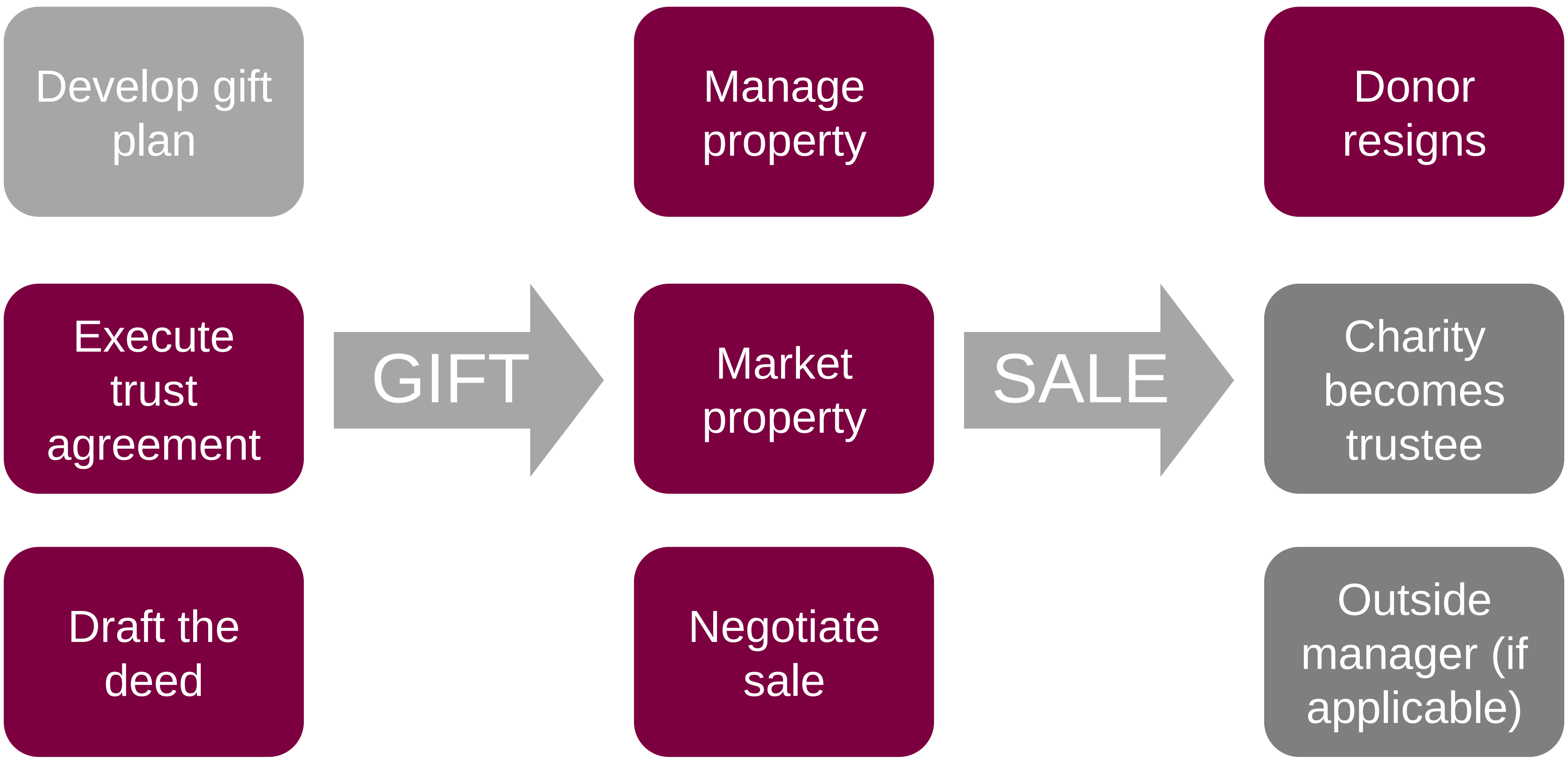
Addressing Marketability Concerns
Before the Gift

- Defer the gift until the market improves
- Be alert to unusual property characteristics
- Perform your own market analysis
- Use more conservative assumptions when evaluating real estate gifts made in return for annuity payments
- Make sure the donor has reasonable expectations

Addressing Marketability Concerns
Before the Gift

- Discuss the range of outcomes each party is willing to accept
- Pre-negotiate the sale (charity only)
- Consider using a “charitable put”
- Ask the donor to serve as initial trustee

Donor as Initial Trustee: How It Works



Colored boxes represent activities for which the donor is solely responsible

Addressing Marketability Concerns
After the Gift

- Be patient
- Rent the property
- Address property deficiencies
- Lower the price
- Consider seller financing to assist in a sale
- Auction the property

Addressing Cash Flow Concerns
Before the Gift

- Complete a detailed cash flow analysis, including worst-case scenarios
- Secure a donation of liquid assets up front
- Set donor expectations about ongoing contributions; execute a letter of understanding
- Explore the possibility of renting the property; discuss with the donor

Addressing Cash Flow Problems
After the Gift

- Help the donor consider alternative ways to fund an addition
- Rent the property
- Create a working capital reserve
- Charity buys part of the property
- What about the trust borrowing money?

Discussion Questions

1. What are the primary issues you identify?
2. What additional questions would you most like to ask?
3. What gift options might you explore?
4. What fundraising strategy issues or questions do you see?
5. What institutional risk issues might arise?

These cases are derived from actual situations, but they are presented for illustrative purposes only. Based on individual facts and circumstances, your results may differ. The cases do not represent tax or legal advice.

You Reap What You Sow

Hi, my name's Marty. I'm a 50th reunion donor from Alabama.

I'm interested in creating a life income gift of real estate.

You Reap What You Sow

My attorney has prepared a trust instrument naming your institution as trustee, and he is ready to deed the land to the trust.

80 acres of Illinois farmland appraised at $892,000

Additional Facts

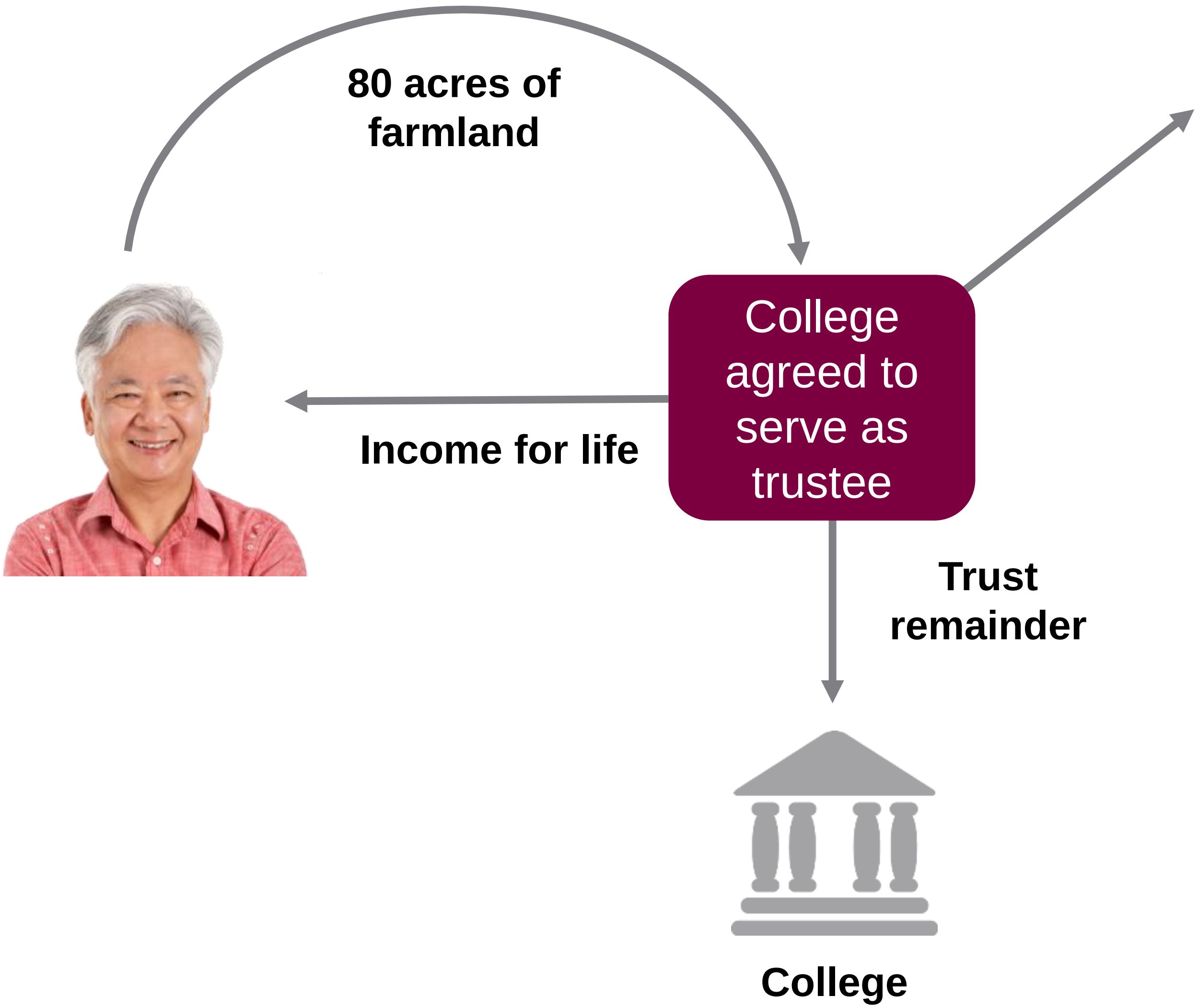
Land inherited over time from grandfather, mother, and aunt

Prospective buyer offering premium price if tenant-free

Oral rental agreement with two brothers
($24,000 income last year)

The brothers are preparing the land for next year

Marty’s Flip Unitrust: Funded in October 2015



Lease Termination Agreement

a. Trustee agreed to a buyout of the lease and reimbursement for fertilizer from sale proceeds

b. Neighboring farmer purchased the farm in March 2016

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