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Ellen J. Lippman

University of Portland, lippman@up.edu

Teri Grimmer

University of Portland, grimmer@up.edu

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Transparency and Accountability for Bequests: The Case of Long Island College Hospital

Ellen J. Lippman
University of Portland

Teri Grimmer
University of Portland

Restricted bequests to not-for-profit organizations can be challenging. Often there is significant lag time between commitment of bequest and death of donor, when operational changes in the beneficiary organization may occur that make adherence to bequest restrictions difficult. Governance systems, external to and within the organization, should exist to monitor the organization's acceptance and use of bequests. Using the \$138 million bequest by Donald and Mildred Othmer to Long Island College Hospital as an example, we consider the stewardship of charitable bequests and the failure of the governance mechanisms in accepting and maintaining bequest restrictions.

INTRODUCTION

For over 100 years, Long Island College Hospital (LICH) was a leader in hospital care to the residents in the Brooklyn area of New York City. But during the 1990s the hospital suffered significant financial difficulties due, in part, to changes in the health care industry. A bequest in 1999 of approximately \$100 million from the estate of Mildred Othmer, a gift that joined an earlier \$37 million bequest in 1996 from Mildred's husband Donald, increased the cash position of the hospital. The wills provided that the gifts become a permanent endowment, with only the income from the endowment available for yearly general expenditures (Will of Mildred Othmer, 1988; Will of Donald Othmer, 1994). Yet this did not occur. Less than one year after receiving the funds from Mildred's estate, the hospital petitioned the court in a *cy pres* argument to change the terms of the bequest and to use the permanent endowment as collateral on financing. Later, with subsequent petitions to the court the permanent endowment was invaded to pay for operating expenses and malpractice claims of the hospital. Within 15 years, the hospital had ceased to exist, having used the funds at the behest of its board and with the approval of the courts. The Othmer's bequest, intended as a permanent endowment, was misdirected for other uses without, seemingly, any accountability for this.

Using LICH as an example, this paper will consider the stewardship of charitable bequests. The paper analyzes the accountability of the multiple stakeholders - donors, the trustee of the estate, the board of the recipient organization and the courts in overseeing the bequests - and considers the failure of the governance mechanisms in accepting and maintaining bequest restrictions.