

Back to the Naming-Rights Conversation

05.09.22 | Linda J. Rosenthal, JD



“Will 2022 be the year that philanthropy finally has a serious conversation about charitable naming rights?” *Naming Rights In The New Year* (February 2, 2022).

Apparently, yes: judging by the drip-drip-drip of headlines in recent months about court battles and public protests, almost obscene bidding wars, and intrusive and outrageous demands by billionaire donors.

It’s long overdue, according to philanthropy historian Benjamin Soskis last fall in *A Legacy of Sackler: Let’s Reconsider Philanthropic Naming Rights* (October 26, 2021) *The Chronicle of Philanthropy*.

“The charitable landscape,” Mr. Soskis explains, “is now extravagantly, even profligately marked by the names of wealthy donors.”

And although their “... names likely help reel hundreds of millions, possibly billions, of additional dollars into the coffers of charitable institutions,” they also “represent a problem, a cacophony of signifiers of wealth and privilege introduced to and cluttering the public square.”

In our early February post, as evidence of the hunch that various naming-rights issues were ripe to move out of the shadows and closer to center stage, we briefly mentioned three high-profile and developing news stories.

Current Naming-Deal Cases

First is the ugly and protracted litigation over attempts to remove the disgraced Sackler name from cultural institutions all around the globe. The family linked to the devastating and deadly opioid epidemic had been alarmingly successful for many years in masking its infamy. Behind a facade of exuberant generosity are almost air-tight and largely confidential gift agreements. This is an all-too-common problem occurs in many naming-rights deals involving later-exposed villains, scoundrels, and creeps.

Prompted by ongoing public outrage at the wimpy response of the Sackler bankruptcy judge, there were new developments after historian Soskis wrote his scathing October article urging a “... wholesale reconsideration of the place of naming rights in contemporary philanthropic culture.” In December 2021, an appellate judge nixed the bankruptcy judge’s ruling but this action didn’t go quite far enough.

That happened in early March, about a month after our *Naming Rights in the New Year* post on February 2nd. See *New \$6bn Sackler settlement would let museums remove family’s name from galleries and buildings without consequence* (March 4, 2022) Wallace Ludel, *The Art Newspaper*.

Second is the bizarre tale of the 97-year-old billionaire underwriting a new mega-dormitory project at UC Santa Barbara. See *After a Billionaire Designed a Dorm, an Architect Resigned in Protest* (October 30, 2021) Maria Cramer, *The New York Times*; *Billionaire Insists on Windowless Dorm in UCSB ‘Dormzilla’* (November 2, 2021) CNN Com News Service. This type of unsolicited meddling and aggressive micromanagement of charitable projects also regularly pops up. The donor who has been astonishingly successful in finance or technology suddenly decides – after the deal is struck – to claim expertise in entirely unrelated specialties like education and architecture. Reportedly, UCSB officials are twisting themselves into pretzels to maneuver a way out of this Kafka-esque future.

Third are headlines that were just breaking ahead of our post on the first Friday of February 2022. Suddenly, we wrote, “... Twitter was consumed by the stories about new naming-rights controversies” surrounding Jeff Bezos’s (separate) gifts to the D.C. Library Foundation and to the Smithsonian Institution. See *D.C. Public Library Trustees Vote To Name Auditorium In MLK Library After Jeff Bezos* (January 28, 2022); *Exclusive: Jeff Bezos’ \$200 million naming rights deal with the Smithsonian does not include a ‘morals clause’* (January 28, 2022) Leslie Albrecht, *MarketWatch*.

But within about 48 hours of our *Naming Rights In The New Year* post, the world’s second-richest man relinquished the honor (nabbed with a paltry \$2.7 million) of having his name emblazoned on the main auditorium of the newly refurbished MLK Library. See *After Backlash, Jeff Bezos Suggests Naming Library Auditorium for Toni Morrison* (February 4, 2022) Martin Austrermuhle, *dcist.com*.

And over that weekend, too, the MarketWatch journalists were able to secure a copy of the previously secret Smithsonian naming-rights gift agreement. The revised version of their January 28th article – posted on February 5, 2022, makes for quite a read!

An Issue to Debate Now

The nonprofit sector faces urgent and varied concerns in 2022. There are priorities stemming from the chaos of the past two years and lingering uncertainties about whether we are truly transitioning out of the pandemic stage.

But by now, four months into the year, it’s clear we can’t hide from other important issues facing philanthropy including a comprehensive discussion and debate about charity naming rights.

These are issues not solely relevant to the contracting parties; to only the donor and the donee in a particular deal. Federal and state government regulators, as dispensers of generous tax breaks as well as protectors of charitable funds on behalf of the American people, are going to be poking

about.

And the nation's nonprofit organizations as well as the general public are much more emboldened than in pre-Covid-19 days to demand a say in these matters and many others.

Case-in-point: The justified and almost immediate eruption of howling about the Smithsonian granting lavish and extensive recognition, publicity, and perks in exchange for a \$200-million gift by a mega-billionaire who reportedly earns that amount each and every day.

Similarly, there was immediate outrage over his (relatively) modest, \$2.7 million, donation to the MLK Library for a big gold plaque above the door of the main auditorium. Jeff Bezos would have earned that much money in the time it took for him to make a phone call checking on whether the City of Rotterdam would agree to dismantle its historic Koningshaven lift bridge to accommodate his too-tall super-yacht. See [*The Dutch vow to egg Jeff Bezos' yacht if a bridge is dismantled to let his boat pass*](#) (February 9, 2022) Rachel Treisman, *NPR*.

And the sheer chutzpah of the union-averse tycoon seeking naming privileges at an institution honoring the nation's leading civil rights icon – (who was supporting local striking workers on the day of his assassination) – was so breathtakingly apparent even to him that (in whiplash-inducing speed) he bowed out in favor of a much more deserving American.

Conclusion

So we'll dive into this critical conversation. Each of these three current news stories – Sackler, Dormzilla, and Bezos – provide fertile ground to explore the most pressing aspects.

The two Bezos deals are more than enough for what we in the legal field call a “perfect bar exam question”:

- *Officials of a leading charitable institution comes into your office for advice. The second-richest person on the planet offers to donate chump change (from his perspective) to underwrite and meddle in projects advancing his favorite new educational theories. He wants his name displayed in every nook and cranny for the next 50 years, exceeding your recently adopted policy of granting only 20-year naming rights. Also, he wants blah blah blah . Identify and discuss each and every issue and problem that may arise.*

Stay tuned.

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