

Naming Rights in the New Year

02.02.22 | Linda J. Rosenthal, JD



Will 2022 be the year that philanthropy finally has a serious conversation about charitable naming rights?

Outrageous bidding wars among the uber rich for the most coveted building plaques is just one of the many problems. Certainly it's better that America's billionaires spend their wealth on the public good than on ever more yachts and private islands. But the resulting deals are often decidedly lopsided, handing off outsized control and benefits to the donors while tying up the donees in knots – sometimes forever.

There can and should be a new discussion of “the public’s interest in overseeing the honors granted to donors,” according to philanthropy historian Benjamin Soskis.

In his recent article in *The Chronicle of Philanthropy*, Mr. Soskis makes an impassioned plea for “... a wholesale reconsideration of the place of naming rights in contemporary philanthropic culture.” See [*A Legacy of Sackler: Let's Reconsider Philanthropic Naming Rights*](#) (October 26, 2021).

Why? Because “the charitable landscape is now extravagantly, even profligately marked by the names of wealthy donors.” 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.”

The public is entitled to a much better deal than 100% charitable deductions for \$100-million donors while ordinary citizens must subtract from their claimed tax breaks the fair market value of rubber-chicken dinners at local \$100-a-plate events.

The public is entitled to something better than naming rights in perpetuity for buildings that will need significant renovations within just a few decades.

The public is entitled to walk by the doors of venerable cultural, educational, and healthcare buildings in their communities without cringing at the sight of a garish sign “honoring” a recently unmasked scoundrel, who had hidden misdeeds in plain sight behind a facade of generosity.

The public is entitled to solicit and receive charitable contributions without undue meddling by donors in matters they have little or no expertise or knowledge.

Certainly, no one wants to give up the fundraisers’ primary tool to entice large donations, but why can’t the public get a better deal than the status quo?

A Messy Lop-Sided Bargain

Change is long overdue, say Soskis and many other philanthropy thought leaders.

The orgy of unbridled competition for naming rights all too often results in a huge mess for a donee organization down the line. In one of our first blog posts, we explained *How a Huge Donation Can Turn Into Bad News* (June 1, 2014). “A generous contribution: How can that be anything but great news?” we asked (rhetorically). “If the money came from a well-known financier who turned out to be a world-class swindler,” we explained, it can become very bad news long after the ink has dried on the donor’s check.”

There, we discussed the wide-ranging ramifications of charitable donations from infamous Ponzi-scheme swindler Allen Stanford. Attempting to bolster a reputation that Stanford knew later would be tarnished by the inevitable Ponzi collapse, he lavished contributions far and wide on unsuspecting organizations. But the source of the funds were legions of defrauded investors, and they wanted their money back – even from charitable recipients.

Since then, the drip-drip-drip of stories about miscreants laundering their reputations behind gold name plaques on community buildings has turned into a flood. There are serious problems and choices for charitable organizations when a donor is, or later is unmasked to be, “tainted.” See, for instance, *What Happens When A Charitable Gift Begins To Smell?* (April 2, 2015).

That post features many high-profile instances of “donor taint”; for instance, the problems that arose for Harvard, Brown, and the University of Michigan, donees of contributions from disgraced Sotheby’s chairman, Alfred Taubman. “Gifts from tainted donors occur frequently, and the responses by the donee-institutions vary widely.” There are tough decisions whether a gift has been completed or still in the pledge stage.

This 2015 post also presented several examples of tricky complications that arise when donations are from tainted or unsavory revenue sources or for controversial purposes. “Dartmouth University, for instance, was offered but turned down money from Playboy magazine. And Yale University refused a \$20 million contribution from a donor whose goal was to reinforce the primacy of Western civilization in the university’s curriculum.”

In *Naming Rights: It’s a Philanthropic Jungle Out There* (March 2, 2015), we discussed the complexities of so-called “renaming gifts” featuring the difficulties that arose when Lincoln Center needed to renovate the Avery Fisher Hall. And see *Charity Naming Rights: Some New Examples*

(September 20, 2016), describing the sometimes insurmountable obstacles that arise from gifts from charitable trust with restrictive terms and conditions. For instance, a Southern university was not allowed to drop the word “Confederate” from a building called Confederate Memorial Hall.

In *Charitable Gifts In Perpetuity: Not A Great Idea* (January 12, 2016), there’s a discussion of the law’s centuries-old aversion to the “dead man’s hand” as well as more of the practical objections to naming rights unrestricted in time.

And, for serious proposals by experts for changes to the current 100%-charitable-deduction-free-ride for wealthy donors, see *Charity Naming Rights: A Provocative Idea* (February 8, 2019). Contrary to an often-cited argument, there are – indeed – ways to place a monetary value on naming rights.

Recent Controversies

A simple glance over recent news headlines about naming-rights situations reveals that a reset or reconsideration of the status quo is long overdue.

For instance, the tentative court-approved bankruptcy settlement announced in September 2021, in the Sackler/Purdue case triggered massive public outrage. Later in the year, this “slap on the wrist” was overturned. See *U.S. judge tosses \$4.5 bln deal shielding Sacklers from opioid lawsuits* (December 17, 2021), Brendan Pierson et al, Reuters. Nevertheless, the Sackler clan appears poised to emerge from their nefarious past with only minimal (financial) consequences. And removing the disgraced Sackler name from philanthropic institutions is proving to be quite a challenge.

In separate news a few months ago, a 97-year-old billionaire donor who promised naming rights to a huge new residence hall at the University of California Santa Barbara has now demanded that his own (amateur) architectural plans be substituted in place of the original architect’s design. A firestorm of controversy has erupted; the donor’s Kafkaesque vision of a multi-story warren of windowless sleeping pods has been creating nightmares for the university. *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.

And just last week, Twitter was abuzz with reaction to new naming-rights controversies surrounding Jeff Bezos’s gifts to the Smithsonian and to the D.C. Public Library. Among the many problems cited in connection with the library donation is that the \$2.7 million gift is chump change for billionaire Bezos and not enough to warrant naming rights. See *D.C. Public Library Trustees Vote To Name Auditorium In MLK Library After Jeff Bezos* (January 28, 2022) Martin Austermuhle, *dcist.com*. As to the much larger Smithsonian donation, a key issue – says a business news channel no less – is the absence of a “morals clause” in the gift agreement to let the donee out of the deal at a later time. See *Exclusive: Jeff Bezos’ \$200 million naming rights deal with the Smithsonian does not include a ‘morals clause’* (January 28, 2022) Leslie Albrecht, *CNBC Market Watch*.

Conclusion

So – yes – in the near future, we’re likely to be discussing morals clauses and dead men’s hands.

Stay tuned.

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