
ASSOCIATION OF FUNDRAISING PROFESSIONALS (AFP) –
GREATER TORONTO CHAPTER

**CONGRESS 2007 – A WORLD-CLASS GATHERING
FOR FUNDRAISERS**

Toronto – November 14, 2007

Donor Rights and Remedies

**By Terrance S. Carter – Carters Professional Corporation
and M. Elena Hoffstein – Fasken Martineau DuMoulin LLP**

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INTRODUCTION

- This presentation is
 - Intended to provide a practical overview of
 - Donor’s rights and remedies in charitable fundraising in Canada
 - Donor-restricted charitable gifts, with a particular emphasis on charities that operate in Ontario
 - Primarily directed to
 - Fundraisers and senior managers associated with charities
 - Lawyers or other professionals who advise charities or who themselves serve on the boards of charitable organizations

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- Based in part on a paper entitled “Looking a Gift Horse in the Mouth” Avoiding Liability in Charitable Fundraising”, by Terrance S. Carter

- Available in an updated version as of November 9, 2004 available at

<http://www.carters.ca/pub/article/charity/2004/tsc0416.pdf>

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OVERVIEW OF TOPICS

- A. General Exposure of Charities to Liability from Donors**
- B. Inherent Rights of Donors**
- C. Statutory Rights of Donors**
- D. Donor-Restricted Charitable Gifts**

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A. GENERAL EXPOSURE OF CHARITIES TO LIABILITY FROM DONORS

- Charities can face exposure to liability from donors
- The interests of donors may not be adequately addressed through the jurisdiction of the courts or the role of the Attorney General (Public Guardian and Trustee)
- As a result, donors may feel that they need to initiate a more direct involvement in enforcing their rights

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- Four situations where a charity and its board of directors may face liability exposure from aggrieved donors:
 - Misrepresentation involving the issuance of charitable receipts
 - Failure to comply with donor restrictions
 - Detrimental reliance upon charitable endorsements
 - Failure to disclose excessive fundraising costs

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Misrepresentation Involving the Issuance of Charitable Receipts

- A charity does not have a legal obligation to provide a charitable receipt for a donation
- However, where a charity does provide a donor with a charitable receipt, then the charitable receipt must be in prescribed form
 - The issuance of an incorrect receipt can result in a 5% penalty on the amount of the receipt for a charity
 - The issuance of a false receipt can result in a 125% penalty on the amount of the receipt and possibly the suspension of receiving privileges for a charity

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- Misrepresentation involving a receipt may occur where
 - No charitable receipt is issued by the charity where the donor was expecting a receipt, e.g. where the charity treats the contribution as a sponsorship but the business assumed it was a receiptable gift
 - The amount shown in the receipt does not equate with the amount that the donor had expected because either
 - i) The amount of the advantage to be deducted, or
 - ii) The “grind down” of the FMV due to the proposed anti-tax shelter provisions on deemed FMV

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- The charitable receipt is challenged by Canada Revenue Agency (“CRA”), e.g. with regards to donation tax shelter schemes
- Remedies for donor
 - Complaint to CRA
 - The donor may attempt to hold the charity, and arguably even the directors liable for the loss or reduction in the tax credits or tax deduction, as the case may be, available to the donor
 - A claim would be based on an allegation of negligent misrepresentation by the charity, its directors or staff, concerning the availability and/or the amount of the charitable receipt or other tax benefits that the donor had expected to receive

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Failure to Comply with Donor Restrictions

- Donors often include restrictions on the donations they make in terms of how the charity may use the donation
 - Liability may result where
 - The charity applies the gift in a manner that is different from the directions provided by the donor because
 - The gift is used contrary to the specific terms of the stipulated restrictions, or
 - The gift is applied other than in accordance with the donor’s reasonable expectations of what the gift should be used for where there is room for interpretation

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- Remedies for donor against the charity and the directors on a personal basis
 - A compliant to CRA
 - A compliant to the Ontario Public Guardian and Trustee (“OPGT”)
 - A claim of breach of trust of the terms of the special purpose charitable trust
 - A claim for negligent misrepresentation of what the charity had purportedly promised to do with the gift once received

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Detrimental Reliance Upon Charitable Endorsements

- Charities often, either directly or indirectly, endorse the products and/or services of a business sponsor, particularly in the context of split-receipting opportunities, e.g. the combination of a gift and a purchase
 - Legal liability may occur where
 - The product or service turns out to be defective and the donor claims that he/she only purchased the product or service in the first place because the charity endorsed it, e.g. camping equipment endorsed by an environmental charity

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- Remedies for donor
 - A claim in damages based on detrimental reliance
 - The legal action would likely be commenced against the charity and possibly its board of directors based upon the charity and/or the directors failure to adequately warn them

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Failure to Disclose Excessive Fundraising Costs

- A charity and its board of directors have a fiduciary obligation to disclose to a donor the fundraising expenses that may be excessive when seeking a donation
- This proposition was set out in *Ontario (Public Guardian and Trustee) v. The Aids Society for Children (Ontario)*, [2001] O.J. No. 2170
- See also *Ontario Public Guardian and Trustee v. National Society for Abused Women and Children*, [2002] O.J. No. 607 (Sup. Ct. Jus.)
- For more details see Charity Law Bulletin #9 at <http://www.carters.ca/pub/bulletin/charity/2001/chvib09-01.pdf> , #13 at <http://www.carters.ca/pub/bulletin/charity/2002/chvib13-02.pdf> and #17 at <http://www.carters.ca/pub/bulletin/charity/2002/chvib17-02.pdf>

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- Remedies for donor
 - Complaint to the press (i.e. The Toronto Star)
 - Complaint to the OPGT
 - Complaint to CRA
 - Legal action to declare the gift to be void for misrepresentation and breach of public policy and therefore refundable

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B. INHERENT RIGHTS OF DONORS

- Donors also have inherent rights, which generally include the right to
 - Disclosure
 - Transparency
 - Financial information
 - Protection from undue influence
 - Expect concern for the donor’s well being
 - Independent legal advice
 - Compliance with regard to donor imposed restrictions
 - Confidentiality

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The Right to Disclosure

- Based upon recent case law, a donor is entitled to reasonable disclosure concerning
 - The purpose of the fundraising, e.g. either for the general charitable purpose or restricted charitable purpose
 - The general costs associated with the fundraising, particularly if it is going to be excessive
 - Whether or not the fundraiser in question is a paid fundraiser or a volunteer
 - Disclosure of fundraising costs below 20% is not normally required but above 20% enters a grey area with no clear guidelines

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The Right to Transparency

- A donor should be entitled to expect that the information provided about a charity or the fundraising program will be done in a manner that is transparent
- This is because transparency allows the donor to make an informed decision on whether to donate or not based upon an assumption that all relevant information concerning the fundraising program in question will have already been voluntarily given by the charity

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The Right to Financial Information

- A donor should be entitled to receive all relevant financial information necessary to make an informed decision concerning a donation and the charitable program that it will be used in conjunction with
- This would involve the donor being entitled to receive a copy of the most recent financial statements of the charity, as well as an explanation of the cost of the project that the fundraising is being undertaken to fund

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The Right to Protection from Undue Influence

- A donor should be entitled to freedom from any form of direct or indirect undue influence in fundraising
- This would include
 - Freedom from repetitive and persistent requests for funds
 - Freedom from situations where a fundraiser or other representative of a charity intentionally develops a close relationship with a donor for the primary purpose of cultivating a source of trust and dependency between the donor and the fundraiser in order to facilitate a charitable gift

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The Right to Expect Concern for the Donor's Well Being

- In certain situations, a donor may be relying on a charity for advice
- In this type of a situation, there may be an implied obligation on the part of the charity to protect an overly eager donor from making a charitable gift if to do so would not be in the best interests of the donor
- *Aids Society for Children (Ontario)* held that the relationship between donors and charities involved in fundraising is that of a fiduciary relationship

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The Right to Independent Legal Advice

- Every donor has a right to obtain independent legal advice before making a gift
- In some situations, the charity and its fundraisers may have an obligation to “actively encourage” the donor to seek independent legal advice. Examples include
 - Specific income tax consequences unique to the donor that should be reviewed
 - A vulnerable donor wishing to make a donation that involves an investment that could negatively impact the
 - Donor’s financial resources or
 - The ability of the donor’s estate to meet obligations to legal dependents

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The Right to Compliance with Regard to Donor Imposed Restrictions

- Where a donor has imposed binding restrictions on a charitable gift, whether it be in relation to how the gift is to be used or if it is to be held in perpetuity as an endowment, the donor has an inherent right to expect that the terms of the restriction will be complied with by the charity and its board of directors

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The Right to Confidentiality

- Every donor is entitled to confidentiality concerning their identity, and the nature of the gift that they have given, unless otherwise consented to
- The right of confidentiality should be reflected in the privacy policy for a charity
- This would involve assurance that a donor’s list is not sold, rented or exchanged, unless an exception is provided for in a privacy policy, such as may occur between closely related charities, such as a hospital and a foundation

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C. STATUTORY RIGHTS OF DONORS

- *Telecommunications Act*
- *Charities Accounting Act (Ontario)*
- *Income Tax Act*
- *Charitable Fund-raising Act (Alberta)*
- *Charitable Fund-raising Business Act (Saskatchewan)*
- *Charities Act (PEI)*
- *The Charities Endorsement Act (Manitoba)*
- *Charitable Purposes Preservation Act (B.C.)*

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Telecommunications Act

- **National Do Not Call List (“NDNC list”)**
 - The *Telecommunications Act* enabled the Canadian Radio-television and Telecommunications Commission (“CRTC”) to establish a NDNC list
 - The NDNC list is not yet in force, as the CRTC is in the process of selecting an independent operator for the list
 - The Act establishes an administrative monetary penalty for contravention of the NDNC list

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- Under s. 41.7 of the Act, charities registered under s. 248(1) of the ITA have been exempted from the rules and guidelines of the NDNC list
- This exemption does not extend to not-for-profit organizations, non-registered charities or the non-registered affiliates of registered charities
- **Telemarketing Rules**
 - The telemarketing rules are currently in force
 - With respect to individual Do Not Call (“DNC”) lists, registered charities must continue to maintain their own lists and honour consumer requests not to be called

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– Charities must also abide by the identification rules, i.e.

- The telemarketer must immediately provide identification information to the intended recipient of the telecommunication
- Upon request, the telemarketer must also provide a toll free contact number
- The toll free number must be answered by an individual or voicemail and the call must be returned in three business days

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– Restriction on Predictive Dialling Devices

- The CRTC established a maximum 5% abandonment rate, which is the percentage of telecommunications placed by a predictive dialling device (“PDD”), which are abandoned calls measured over a calendar month
- PDDs include any device, system, or computerized software that automatically dials telecommunications numbers
- The purpose of this 5% maximum is to reduce the number of hang-ups and dead air calls that consumers experience

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- Telemarketers using PDDs must maintain records that provide clear evidence that they have complied with this rule
- The CRTC also requires telecommunications service providers to specifically monitor complaints regarding dead air and to report these to the CRTC

- Investigation of Complaints for Violation of the Telemarketing Rules

- Complaints and violations will be handled by the DNC list operator
- *Prima facie* violations will be referred to the CRTC

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- The CRTC will then investigate that complaint to determine whether a violation of the rules has occurred
- If a violation is found, the CRTC can determine whether they will issue a notice of violation and/or impose an administrative monetary penalty
- The fine can range from \$1,500 for individuals to \$15,000 for corporations

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Charities Accounting Act (Ontario)

- Section 6
 - A donor may lodge a complaint against a charity’s fundraising practices with any judge of the Superior Court of Justice, who may when order an investigation by the OPGT
- Section 10
 - Two or more people may allege a breach of trust involving a charitable purpose and may apply to the Superior Court of Justice for an order or direction as the Court considers just, including an order for an investigation by the OPGT

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- Subsection 4(d)
 - Not a specific right of a donor, but
 - It could be used as a mechanism to enforce directions established by a donor in making a charitable gift, because
 - A complaint concerning the fundraising practices of a charity could result in the OPGT seeking an order that would indirectly cause a review of the fundraising practices of the charity

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- Section 3
 - Not a specific right of a donor; it is a general power given to the OPGT
 - A donor may make a complaint to the OPGT concerning a fundraising practice of a charity or a misapplication of directed funds, then
 - The OPGT would have the statutory right under s. 3 to require a charity to submit its accounts for a formal passing of accounts before a judge

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Income Tax Act

- No specific statutory rights for donors under the ITA, but an effective indirect remedy in that
 - A donor may make a complaint with the Charities Directorate of the CRA if he/she has concerns about whether a charity’s fundraising practices or operations comply with the numerous requirements under the ITA
- Result of complaint
 - The CRA would likely audit the operations of the charity to determine whether such operations, including fundraising practices, comply with the Charities Directorate requirements and if not can impose a penalty or even suspension of receipting privileges

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Charitable Fund-raising Act (Alberta)

- Purposes [s. 2]
 - To ensure that the public has sufficient information to make informed decisions when making contributions to a charitable organization or for a charitable purpose
 - To protect the public from fraudulent, misleading or confusing solicitations and to establish standards for charitable organizations and fund-raising businesses when making solicitations

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- **Regulation of charities that solicit donations in Alberta**
 - If a charitable organization in its financial year raises, as a result of solicitations, gross contributions of less than \$25 000 from individuals and/or others in Alberta, the charitable organization is not required to register
 - If the charitable organization’s gross contributions are \$25 000 ore more, it must register within 45 days of the gross contributions reaching \$25 000
- **Scope of Act is broad - not limited to charities registered with CRA**

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- **Requirements of charities include**
 - Registration and maintenance of records [s. 7, 14]
 - Provision of information to donors [s. 6, 9]
 - Complying with fundraising rules [Part 2]
 - Complying with standards of practice [s. 31, 32]
- **Remedies for Donors**
 - Unregistered charitable organizations that request contributions for their own use or for a charitable purposes are guilty of an offence and liable to a fine in the amount of
 - The greater of
 - Between \$1,000 and \$100,000 or

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- Three times the amount that the offending organization acquired as a result of the offence [s. 55(2)]
- Compensation to an aggrieved person for loss associated with the offence committed [s. 56]
- Directors and officers of the charity may be held personally liable for an offence committed by a corporation [s. 55(3)]

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Charitable Fund-raising Businesses Act (Saskatchewan)

- **Regulates for-profit, fund-raising businesses that raise funds on behalf of charitable organizations**
- **Provides potential donors with the right to certain information relating to the charitable purpose and the fundraising activities of the charity**
- **Unless specifically requested by the potential donors, the information that those who have been solicited by telephone communication are entitled to is of a more limited nature**

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- **In addition, potential donors have the right to request that the charitable organization, which contacted them, refrain from making solicitations to them in the future. The organization is then obligated to place their name on an internal list of individuals who have requested not to be contacted**
- **Remedy**
 - **The Registrar may conduct investigations and cancel licenses if a fund-raising business has committed an offence under the Act**

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Charities Act (PEI)

- **Any person, association, institute or organization, under whose auspices funds for benevolent, educational, cultural, charitable or religious purposes, that directly or indirectly solicits or makes any appeal to the public for donations in PEI must register pursuant to the *Charities Act* (Prince Edward Island) [par. 3(1)(a)]**
- **Soliciting funds in the province without registering under the Act is a statutory offence and upon summary conviction, a fine not exceeding \$500 may be imposed [s. 10(1)]**
- **The Act does not apply to an organization or foundation that is a registered charity for the purposes of the *ITA* [s. 2]**

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The Charities Endorsement Act (Manitoba)

- Unless authorization has been obtained by way of application to the Manitoba Consumers' Bureau, persons, associations, societies, or other organizations or body of persons are prohibited from engaging in any means of direct or indirect solicitation (i.e. telephone, mail, home to home canvassing, etc.) of money, goods or financial assistance, as well as on the sale, provision or offering to sell or provide any goods, services or anything of value on the basis that the donations or proceeds will go to a charitable purpose

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- Solicitation of donations from current members is exempt from the provisions of the Act [para. 2(2)(a)], but
 - “member” does not include a person who becomes a member in order to make a donation [s. 2(3)]
- Consequences
 - A fine of a maximum of \$50 and/or imprisonment of up to 10 days, if an individual and a fine of \$500 if a corporation [s. 4]

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Charitable Purposes Preservation Act (B.C.)

- Purpose
 - To address uncertainty surrounding the protection of donations that have been given for a specific charitable purpose
 - To prevent donations given for a specific charitable purpose from being used for objects other than those intended by the donor
 - It is a response to the legal confusion that arose following a saga of cases involving the *Christian Brothers of Ireland in Canada* decision
 - These cases sparked concern over the lack of protection provided to special purpose charitable property when the charity responsible for the property is subject to the financial claim of a third party (i.e. creditors)

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- **Qualification for Protection under the Act**
 - **The gift must qualify as “discrete purpose charitable property”**
 - **Given to a charity for a specified charitable purpose**
 - **Identified with certainty by the donor, either expressly or through some formula or method**
 - **Donated with the express or implied intention that it will be kept and administered by the charity separately from any other property, and used exclusively to advance the specified charitable purpose [s. 2(1)]**

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- **Result if property qualifies**
 - **The charity will have no beneficial interest in the property and it will be protected from any seizure or attachment to satisfy a debt or liability of the charity**
 - **Except those debts or liabilities incurred by the charity in “advancing, or in attempting or purporting to advance, the discrete purposes of the property” [s. 2(4)]**
- **Obligations of charity**
 - **Charities must follow the intentions of the donor in order for the property to retain its character as discrete purpose charitable property [s. 3(1)]**

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- **Charities must keep the discrete purpose charitable property separate and apart from other property [s. 2(1)(c)(i)]**
- **Remedies for donors**
 - **Broad authority given to the courts**
 - **Courts may make whatever order it considers necessary, including transferring the property to a new charity, if the charity does not meet its obligations under the Act [s. 3(3), (4)]**
- **Interprovincial donations involving special purpose gifts could leave charities and donors in an uncertain position concerning whether the gifts will be protected by the Act**

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- e.g. A charitable organization operating in B.C. accepts discrete purpose charitable property from a B.C. resident, but the head office and bank account of the charity are located in Ontario
- The Act’s definition of both “charity” and donor” make no reference to a method for determining when a charity or donor will be found within the geographic jurisdiction for the application of the Act
- For a further review of the Act see Charity Law Bulletin #122 – A Review of the New B.C. Charitable Purposes Preservation Act at <http://www.carters.ca/pub/bulletin/charity/2007/chv1b122.pdf>

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D. DONOR-RESTRICTED CHARITABLE GIFTS

The Difference Between Unrestricted and Restricted Charitable Gifts

- What is an unrestricted charitable gift?
 - It is a gift at law to be applied towards the general charitable purposes of a charity that is not subject to any restriction by the donor
 - If a board designates a gift to a specific charitable purpose, the board can change its mind and apply the gift to another special purpose as long as it is within its charitable objects

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- Examples of unrestricted charitable gifts
 - Cash donations
 - Government grants not restricted to a specific program
 - Gifts from donors that are directed to be used for the general purposes of a charity
 - Board designated funds that are internally restricted

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- **What is a restricted charitable gift?**
 - **Restrict means “to restrain within bounds; to limit; to confine” *Black’s Law Dictionary***
 - **It is a gift at law that is subject to restrictions imposed by the donor that constrain how a charity can use the gift**
 - **Very important for a charity to understand the nature of the restriction that has been imposed and the importance of complying with the restrictions**
 - **There are different forms of legal restrictions with corresponding distinct legal consequences**

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- **Examples of donor-restricted charitable gifts**
 - **Endowment Funds**
 - **Generally, an endowment is a charitable trust for a restrictive purpose (i.e. a special purpose charitable trust)**
 - **Restricted in time for 10 years or more**
 - **Restricted Use Funds**
 - **Capital and earned income to be expended over a period of time rather than being held for 10 years or more**
 - **Will be applied in accordance with certain specific charitable purpose restrictions**
 - **Restrictions will eventually be fulfilled, thereby bringing the restricted gift to an end**

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- **Restricted Charitable Trust Property**
 - **Real estate that is acquired subject to certain terms of trust contained in the deed of the property that can act as a type of an endowment**
 - **Three general categories of restrictions:**
 - **Pertaining to use**
 - **Pertaining to religious doctrine**
 - **Limiting the use of the property to those who follow a particular religious practice**

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- **Implied Restricted Charitable Gifts**
 - **Courts have been prepared to consider extrinsic evidence concerning whether the donor intended to create a restricted charitable gift**
 - **e.g., instead of a formal gift agreement, the court can look at a letter or a memorandum of discussions with a donor to determine his or her intent**

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- **Precatory Trusts/Designated Gifts and Donor-Advised Funds**
 - **Precatory trust**
 - **Is a non-binding request of the donor and is also called a designated gift**
 - **Do not have any enforceable restrictions associated with them**
 - **Donor gives “suggested direction” which is an expressed preference, desire or request**
 - **Moral obligation on charity receiving such a gift**

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- **Donor advised fund**
 - **A form of designated giving whereby the donor makes a gift to a charity and then periodically makes nonbinding recommendations as to the distribution of assets from the fund**
 - **Allows donor to receive immediate tax deduction for a charitable gift while deferring the ultimate disbursement of the gift for future charitable projects**

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- According to CRA, a donor can require a gift to be used in a particular program provided that the decision regarding use of the donation within the program rests with the charity
- If donor retains too much control over the gift it will no longer be considered a gift at law, in which case it cannot be receipted under the ITA

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Consequences to Charity for Failing to Comply with Donor Restrictions

- Personal liability for breach of trust involving a restricted gift
 - If there is a breach of an endowed gift, then directors may be found jointly and severally liable
 - The directors would be liable to compensate the charity for the full amount of any loss suffered as a result of the failure to comply with the restricted gift

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- Potential personal liability of the board of directors for
 - Breach of trust
 - Losses resulting from an *ultra vires* or unauthorized charitable purpose
 - Third party claims by donors and residual beneficiaries
 - Losses resulting from accrued interest that would have been applied to the misdirected funds
 - Statutory remedies, as summarized above
 - *Criminal Code* charges, if a failure to comply with donor restrictions was done with an intent to defraud [s. 336]

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- **Breach of Trust – Examples**
 - **Diverting funds intended for one charitable program for use in another charitable program**
 - **Withholding a fund and not applying it to the charitable purpose intended by donor**
 - **Concealing the existence of a restricted charitable trust fund**
 - **Placing funds into a perpetual endowment fund when the fund is meant to be for short term use**

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- **Mixing restricted funds with those of another charity without appropriate authorization e.g. in the deed of gift or court authorization**
- **Encroaching upon the capital of endowment fund intended to be held in perpetuity**
- **Using surplus funds for a different charitable purpose without court authorization**
- **Altering donor restriction without court approval unless pre-authorized by donor**

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- **Liability for *Ultra Vires* or Unauthorized Charitable Purposes**
 - **An endowed gift used for a purpose that is outside of the authorized corporate objects of a charitable corporation can expose board members to personal liability**
 - **e.g. Board members could be held jointly and severally liable for any loss resulting from unauthorized activity**

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- **Liability for Third Party Claims by Donors/ Residual Beneficiaries**
 - Civil action could be brought by donors or residual beneficiaries for return of donated property
 - If the court is unable to apply the gift *cy-près*, then the gift will revert to residual beneficiaries (capital plus accrued interest)

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- **Statutory Liability**
 - Remedies under the *Charities Accounting Act*:
 - OPGT can require charity to submit accounts for formal passing [s. 3]
 - OPGT can obtain a court order to enforce directions established by donor [s. 4(d)]
 - Member of public can complain to a judge of the Ontario court who can order that the OPGT conduct a public inquiry. [s. 6(1)]
 - Court can make order as “deems in the circumstances to be just” where breach of trust alleged [s. 10]

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- **Criminal Liability**
 - If failure to comply with restrictions was done with intent to defraud, directors could be exposed to a criminal charge under s. 336 of *Criminal Code*
 - For this to apply there must be conversion by charitable trustee for use in contravention of trust with an intent to defraud

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Variance of Donor Restrictions

- **A Donor-restricted charitable gift may only be varied by the courts**
- **Procedure to vary donor restrictions**
 - Through an application to court for a *cy-près* order
- **Consequences of varying a donor-restricted charitable gift without a court order**
 - Breach of trust

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- **Where court approval may not be necessary**
 - A *cy-près* application is unsuccessful and there is no gift over to another charity and the gift reverts back to the donor
 - The gift fails because of either a condition precedent or a condition subsequent where there is a reversion back to the donor
 - **Result**
 - The donor is able to unilaterally re-issue the gift to the intended charity once the donor has received the gift back, and
 - The donor has the option of establishing new restrictions on the gift or making the donation without restriction

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Protecting the Donor-Restricted Charitable Gift

- **Due to the impact of the Christian Brothers Ontario Court of Appeal decision**
 - Claims against charities may increase
 - Special purpose trust endowments will be at risk to creditors of the charity
 - The ability of donors to create enforceable restricted gifts may be weakened
 - Donors may be reluctant to give large gifts directly to an operating charity without the assurance of protection

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- Donors and charities should consider protecting restricted charitable gifts by
 - Utilizing an arms’ length parallel foundation, or
 - Utilizing a community foundation or trust company
 - Structuring the gift as a determinative gift with a gift over to another charity

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