

1. Title

Guidelines for Acceptance of Gifts of Real Property

2. Rule and Regulation

Sec. 1 Purpose. To provide guidelines for accepting and valuing leasehold interests, campus properties, and bequests of surface and mineral estates in real property.

Sec. 2 Applicability of Guidelines. These guidelines apply to all gifts of surface and mineral estates in real property regardless of type, location, or designated use of the funds to be derived there from. In the absence of guidelines or policies relating to such gifts designated for campus use, these policy guidelines shall apply. The Board of Regents recognizes that the full implementation of these guidelines with respect to surface and mineral estates in real property donated or bequeathed to The University of Texas System or any of its institutions may not be achievable in all cases. U. T. System Administration's Real Estate Office and University Lands - West Texas Operations will evaluate gifts of surface and mineral estates in real property and apply these guidelines to the extent reasonably practicable and in the best interest of the System.

Sec. 3 Acceptance of Surface Estates. The following procedures are to be followed for the acceptance of gifts of surface estates.

3.1 Notification of the Real Estate Office. The institution (for current purpose gifts) or System Administration's Office of Development and Gift Planning Services (for planned or endowment gifts) will notify the Real Estate Office upon identification of a potential gift of real property.

3.2 Information to be submitted to the Real Estate Office. The institution or Real Estate Office will request that the donor provide as much of the following information as possible to allow the Real Estate Office to evaluate the proposed gift. If not paid by the donor, the benefited institution shall pay all costs incurred by the Real Estate Office to evaluate the gift or protect System's interests with respect to the gift, including title policy premiums. The Board of Regents strongly encourages the acquisition of a title policy at the time the property is

acquired whether the policy premium is paid with funds provided by the donor or the institution.

(a) Fee interests in surface estates

- Map showing location of property
- Legal description of property
- Proof of ownership (deed)
- Survey of subject property and improvement (Category 1A survey preferred)
- List of improvements
- Copies of current leases, if any
- Current title commitment and copies of all title exceptions, including deed restrictions or covenants and liens
- Copy of the donor's title policy, if any
- List of current expenses required to maintain/operate the property
- Proof of payment of taxes and association fees, if any
- Recent appraisal or other acceptable valuation
- Copies of documents relating to past or current litigation directly affecting the real estate
- A written statement from the donor identifying any known waste disposal sites or contamination or spills of hazardous or other regulated materials on the property, or a statement to the contrary, and assuring compliance with the U. T. System Environmental Review Policy for Acquisitions of Real Property Assets

- Written statement from the donor outlining purpose of the gift
- Permission for access to the property to conduct on-site inspections
- Such other information as may be requested by System Administration's Office of General Counsel, Real Estate Office, or Office of Development and Gift Planning Services

(b) Leased fee interests in surface estates

- Copies of fully executed leases and lease amendments
- Items listed in (a) above
- History of all lease payments
- Estoppel certificates
- Insurance policy and certificates.

3.3 Sale of a Surface Estate. The Real Estate Office will generally request that the surface estate received from an estate or trust be sold rather than distributed to the University. The sale price shall be based upon a fair market value appraisal or other generally accepted industry standard for valuing the property. The Real Estate Office shall provide assistance to facilitate the sale of the surface estate, when appropriate. If the surface estate is not sold within a reasonable period of time, the Real Estate Office will evaluate the surface estate to determine whether the gift will be accepted or rejected.

3.4 Evaluation of Qualified Gifts. The Real Estate Office will evaluate and inspect a proposed gift of surface estate. Only qualified gifts of surface estates will be recommended for further review and evaluation.

3.5 Unencumbered Surface Estate. The Real Estate Office generally will not recommend acceptance of a qualified gift of an unencumbered surface estate unless there is a

clear benefit to the U. T. System or any of its institutions and all of the following conditions are met:

- (a) Adequate provisions are made by the donor or the institution for the expense of management until disposition. The donor should be encouraged to contribute funds for the management of the property until disposition occurs. Any unreimbursed costs of management or sale of the property will be charged either against income from the property or proceeds from the sale of the property.
- (b) The gift is of a 100% interest in the property.
- (c) There are no undue limitations on the System's ability to own, manage, and dispose of the property.

3.6 Encumbered Surface Estate. The Real Estate Office generally will not recommend acceptance of a qualified gift of a surface estate that is mortgaged or encumbered unless there is a clear benefit to the U. T. System or any of its institutions and all of the following conditions are met:

- (a) The donor donates funds or makes other appropriate arrangements to meet all debt requirements.
- (b) Adequate provisions are made by the donor or the institution for the expense of management until disposition. The donor should be encouraged to contribute funds for the management of the property until disposition occurs. Any un-reimbursed costs of management or sale of the property will be charged either against income from the property or proceeds from the sale of the property.
- (c) The gift is of a 100% interest in the property.
- (d) There are no undue limitations on the System's ability to own, manage, and dispose of the property.

3.7 Environmental Assessment. An environmental assessment of the gift must be completed in accordance with the "U. T. System Environmental Review Policy for Acquisitions of Real Property Assets."

- 3.8 Evaluation Criteria. The Real Estate Office will consider all criteria for acceptance outlined in this policy and information gathered with respect to the property in determining whether to recommend acceptance of a qualified gift of real property. To demonstrate a clear benefit to the System, the Real Estate Office will evaluate the return expected from a qualified gift of a surface estate based on, but not limited to, such factors as income potential, development characteristics, type of property interest, holding costs, management requirements, holding period, location, potential environmental liabilities, encumbrances, and any other potential liabilities or risks associated with the asset.
- 3.9 Gift Acceptance. The Real Estate Office will make a recommendation to the Responsible Officer or the Board who will accept or reject the gift.
- 3.10 Title. Title to each property shall be held in the name of the Board, and not in the name of any institution, department, or individual. The Real Estate Office will ensure that all deeds for gifts of surface estates are recorded in the county where the property is located and will retain the original deed in its permanent records.
- 3.11 Valuation. The preferred method of valuation for the purpose of determining gift value, sale price, or lease rates for a surface estate shall be an appraisal prepared by an independent State-certified or other licensed appraiser.
- (a) The value of a surface estate less than \$50,000 may be determined by solicitation of offers or by any other generally accepted industry standards including tax assessments.
- (b) An appraisal is not required when a surface estate is sold at public auction or by use of sealed bids.
- Sec. 4 Acceptance of Mineral Estates. The following procedures are to be followed for the acceptance of gifts of surface estates:
- 4.1 Notification of the University Lands – West Texas Operations. The institution (for current purpose gifts) or

Office of Development and Gift Planning Services (for planned or endowment gifts) will notify University Lands – West Texas Operations upon identification of a potential gift of a mineral estate. University Lands – West Texas Operations will evaluate the mineral estate and determine whether the asset should be accepted or rejected by the System or in the case of a testamentary transfer or trust whether to request that the interest be sold. University Lands – West Texas Operations will provide assistance to facilitate the conveyance or sale of the mineral assets.

- 4.2 Information to be submitted to University Lands – West Texas Operations. The institution or University Lands – West Texas Operations will request that the donor provide as much of the following information as possible to allow University Lands – West Texas Operations to evaluate the proposed gift. If not paid by the donor, the benefited institution shall pay all costs incurred by University Lands – West Texas Operations to evaluate the gift or to protect the U. T. System’s interests with respect to the gift.
- (a) Map, plat, or survey of the property
 - (b) Legal description of the property
 - (c) Proof of ownership (deed or assignment)
 - (d) Copies of current oil and gas leases, if any
 - (e) Copies of division orders, if any
 - (f) Copies of other relevant documents, such as unit agreements and operating agreements
 - (g) List of encumbrances including any liens and copies of the corresponding documentation
 - (h) Abstracts of title or title opinions
 - (i) Geological or geophysical records
 - (j) Lease ratifications and lease assignments

- (k) Copies of appraisals or reserve studies
 - (l) Copies of documents relating to past or present litigation directly affecting the property
 - (m) Copies of insurance coverage carried by the well operator relative to environmental damage.
- 4.3 Sale of a Mineral Estate. University Lands – West Texas Operations will generally request that the mineral estate received from an estate or trust be conveyed. However, if the sale of the minerals is appropriate, the sale price shall be based upon a fair market value appraisal or other generally accepted industry standard for valuing the property. University Lands – West Texas Operations shall provide assistance to facilitate the sale of the mineral estate, when appropriate. If the mineral estate is not sold within a reasonable period of time, University Lands – West Texas Operations will evaluate the mineral estate to determine whether the gift will be accepted or disclaimed.
- 4.4 Evaluation of Mineral Estates. University Lands – West Texas Operations will evaluate a proposed gift of mineral estate. Only qualified gifts of mineral estates will be recommended for further review and evaluation.
- 4.5 Evaluation Criteria. University Lands – West Texas Operations will consider all of the criteria for acceptance outlined in this policy and information gathered with respect to the minerals in determining whether to recommend acceptance of a qualified gift of a mineral estate.
- 4.6 Gift Acceptance. University Lands – West Texas Operations will make a recommendation to the Responsible Officer or the Board who will accept or reject the gift.
- 4.7 Title. Title to each mineral estate shall be held in the name of the Board and not in the name of any institution, department, or individual. University Lands – West Texas Operations will ensure that all deeds for gifts of mineral estates are recorded in the county where the

mineral estate is located and will retain the original deed in its permanent records.

- 4.8 Valuation of a Mineral Estate. The preferred method of valuation for the purpose of determining value for a mineral estate shall be at the discretion of University Lands – West Texas Operations, but shall always be by generally accepted industry standards.

3. Definitions

Gift – conveyances and testamentary transfers, as well as trust distributions to the U. T. System.

Real Property – individually and collectively the surface and mineral estate.

Surface Estate – any interest in the surface of real property, including fee and leased fee interests, together with all appurtenances and improvements attached thereto, and all property interests that do not constitute the mineral estate.

Mineral Estate – mineral rights of gas, oil and minerals, whether joined to or severed from the surface estate and the associated rights as properly conveyed to the U. T. System or any of its institutions. An overriding royalty interest that is not subject to any costs shall also be a "mineral estate."

Responsible Officer – the Vice Chancellor for Business Affairs or his/her designee (for current purpose gifts) or the Vice Chancellor for External Relations or his/her designee (for endowments and other planned gifts) and is responsible, based on the recommendations of the Real Estate Office and University Lands – West Texas Operations, for the initiation and completion of the formal acceptance of the gift via administrative approval, the Docket, or the Agenda, as appropriate.

Qualified Gift of a Surface Estate – any interest that will net more than \$25,000 upon sale or a property for which there is an effective direct use by an institution.

4. Relevant Federal and State Statutes

None

5. Relevant System Policies, Procedures, and Forms

[The University of Texas System Administration Policy UTS138, *Gift Acceptance Procedures*](#)

[The University of Texas System Administrative Rule UTS161, *Environmental Review for Acquisition of Real Property*](#)

6. Who Should Know

Administrators
Chief Business Officers
Development Officers
Environmental Health and Safety Directors/Professionals
Physical Plant Directors

7. System Administration Office(s) Responsible for Rule

Office of Business Affairs
Real Estate Office

8. Dates Approved or Amended

December 10, 2004

9. Contact Information

Questions or comments regarding this rule should be directed to:

- bor@utsystem.edu