

# Notes from meeting of Trustees of the Trust Fund with City Attorney

Tuesday, December 12, 2017, 3:30-3:45, City Attorney Office  
Attending: Trustee Rob Pallas, Trustee Esther Turner, Attorney Terence O'Rourke

## PROBATE COURT STATUS

In March we met with Attorney Kimberly Memmesheimer to remove the \$500 limit on timber removal at Dominicus Hanson Park trust. In August we heard the limit was not removed but increased. What is the current status?

**Terence** O'Rourke will check on the status. Last he knew the judge had requested that the change be advertised and the "Protestant Churches of Nashua" be advised. Someone is figuring out exactly what organizations are in that category.

**Rob** reminded Terence that there are recommendations for the health of the forest as detailed in the Forest Management Plan prepared by Charlie Moreno that are waiting on implementation because of the \$500 restriction. Rob stated that the trustees would like to proceed with the plan in the spring, that we are already two years behind schedule.

## CONSOLIDATION OF LIBRARY TRUSTS

Under some circumstances, may library trusts be consolidated? What circumstances? Examples: too small to purchase a book, compatible requirements of same-size trusts.

**Terence** requested copies of the library trusts. He will examine them and determine if the law allows for consolidating the funds.

**Esther** shared the proposal made at the trustees meeting with library trustees. If the funds were consolidated, we could in conjunction with the upcoming anniversary celebrations of the library create and hang a plaque acknowledging the donors to the library trust account.

**Esther** will get copies of the library donor documents to Terence.

## GENDER DISCRIMINATION

Must we go to Probate Court to remove discriminatory language from trust requirements? Examples: scholarships with designated gender, charitable trusts to "maiden ladies and widows."

**Terence** stated that private trusts can leave monies to any group they wish, but public monies cannot violate laws put in place to protect against discrimination. He is familiar with how this works with racial discrimination, something simpler than *cy pres*. He will check to see if the same can be applied to gender discrimination.

**Esther** will get copies of the four documents with gender-specific requirements to Terence.

#### LOCATIONS INCOMPATIBLE WITH CURRENT LIBRARY

We have two library trusts that specify where purchased books must be located, a situation which results in less availability to library patrons than was likely intended at the time of the trust. Is there an efficient, not costly way, to update these to better meet the intention of the donor?

**Terence** will read the documents and see if there is an efficient way to handle these.

**Esther** will identify the two library trusts that have location specifications.

#### NEW HAMPSHIRE MUNICIPAL ASSOCIATION

We attended the Right-to-Know-Law training last Wednesday. We learned that setting up a meeting via email and providing background information for the meeting are not in conflict with New Hampshire law. However, it was advised that all such messaging should be done on city email accounts. Can the trustees be provided city email accounts?

**Terence** could see the wisdom in this and will get the trustees set-up with city email accounts. There are information technology staff that can assist us with setting these up to forward messages into our primary email accounts, so that we do not need to be checking multiple accounts to stay current with email communications.

**Terence** agrees with the concept of routinely making email communication of government agencies available electronically to the public. It may not yet be cost-feasible.

#### CHARITABLE TRUSTS UNIT

For the Trustees of the Trust Fund in Rochester the Charitable Trusts Unit has been an important educational resource. Under what circumstances would you agree that we address questions to the Charitable Trusts Unit?

**Terence** advised that there is no circumstance in which we may directly address questions to the Charitable Trusts Unit.

**Esther** pointed out that the trustees have found the Charitable Trusts Unit to be both prompt and correct in their responses, that going directly to Charitable Trusts is efficient and less costly to the City, and that it does not burden the city attorney.

Is your reluctance for engagement with the Charitable Trusts Unit due in any part to a lack of respect for the unit?

**Terence's** reason is the possibility of the New Hampshire Department of Justice being an adversarial party with the City of Rochester. For example, if the City were to violate the terms of a trust, DOJ would be charged with enforcement of the trust and the City would be defending its actions. Although there is nothing of that nature currently, the potential is there. It is better practice for the city attorney to handle communications with the Charitable Trusts Unit.

**Terence** stated that handling these communications is not a burden; it's his job. Also, the cost of avoiding legal snarls is much less than getting inadvertently enmeshed.